

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-16-90057

In re Complaint of John Doe¹

This is a judicial complaint and supplemental complaint filed on August 25 and September 9, 2016, by a federal inmate against the United States district judge who dismissed the complainant's post-conviction motions.

Since complainant's 1993 criminal conviction, he has filed several post-conviction motions and two civil lawsuits. In August 2014, complainant moved under Federal Rule of Civil Procedure 60(d)(3) for reconsideration of the district court's previous denial of complainant's petition for relief under 28 U.S.C. § 2255. In July 2016, finding no legal merit to the complainant's claims, the district judge denied complainant relief. Complainant moved to reconsider, and the district court denied his motion.

In his judicial complaint, complainant challenges the district judge's denial of his Rule 60(d)(3) motion and motion for reconsideration. Complainant alleges the district judge's orders are "void" because the district judge failed to "discuss[] any of [his] five allegations of fraud committed by the prosecutor during the pendency of [his] initial Rule 33/2255 motion." Complainant further alleges the district judge mistakenly relied on "material misrepresentations" contained in the prosecutor's 1997

¹Under Rule 4(f)(1) of the Rules Governing Complaints of Judicial Misconduct and Disability of the Eighth Circuit (E.C.), the names of the complainant and the judge complained about are to remain confidential, except in special circumstances not present here.

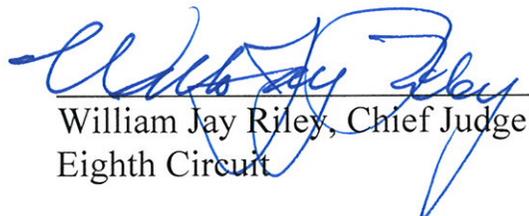
brief, and such “‘misstatements’ [were] actually fraud directed at the court to cover-up the trial nondisclosure regarding the . . . murder and related information.” Complainant states: “It is my hope that I will be afforded my guaranteed and protected constitutional right to due process and be allowed to have my 60(d)(3) motion screened by the district court.”

Challenges to a district judge’s rulings on the merits are not cognizable in a judicial complaint. See 28 U.S.C. § 352(b)(1)(A)(ii); accord J.C.U.S. Rules 3(h)(3)(A), 11(c)(1)(B). Complainant’s allegations against the district judge must be dismissed because they are “directly related to the merits of a decision or procedural ruling.” 28 U.S.C. § 352(b)(1)(A)(ii); see J.C.U.S. Rule 11(c)(1)(B). “An allegation that calls into question the correctness of a judge’s ruling, . . . without more, is merits-related.” J.C.U.S. Rule 3(h)(3)(A).

To the extent the complainant makes accusations against attorneys involved in these proceedings, the charges must be dismissed because this judicial complaint process only addresses the conduct of United States judges. See 28 U.S.C. § 351(a), (d)(1); J.C.U.S. Rule 4; E.C. Rule 1(c).

The complaint is dismissed.

September 27, 2016



William Jay Riley, Chief Judge
Eighth Circuit