

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-16-90060

In re Complaint of John Doe¹

This is a judicial complaint filed on September 7, 2016, by a pro se civil litigant against the United States district judge who presided over the complainant's 42 U.S.C. § 1983 civil rights case and dismissed that case without prejudice for lack of federal subject matter jurisdiction.

In complainant's civil rights case, complainant alleged his civil rights were violated during an interaction with a police officer when the officer searched and detained complainant. The district judge provided complainant an opportunity to amend his pro se complaint to include "specific factual events giving rise to his claim" involving a violation of complainant's constitutional rights. The complainant submitted an "Amended Statement," but the district judge determined complainant still had not provided "an adequate basis" for the court to retain jurisdiction and dismissed his case without prejudice.

The judicial complaint charges there has been either "Misconduct or a Disability as defined by the complaint procedure." Complainant alleges the district judge improperly determined he had not alleged a "question of federal law," and the district judge lied when the district judge "claim[ed] they did not receive the first complaint [complainant] sent." Complainant accuses the district judge of "maybe"

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.

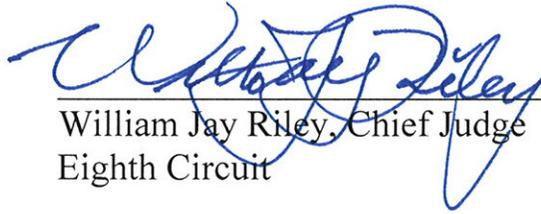
“forg[etting]” that complainant had in fact made a statement of jurisdiction in his complaint. Complainant claims this is “proof [the district judge is] old and is becoming senile.” Complainant alternatively asserts the district judge “has become prejudice [sic] against economically disadvantaged people or that he favors police forces.”

Complainant has attacked the merits of district judge’s decision by accusing the district judge of disability and bias. The complainant’s claims about the district judge do not demonstrate the district judge “engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts” or “is unable to discharge all the duties of office by reason of mental or physical disability.” 28 U.S.C. § 351(a); accord Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(c)(1). Attacks to the merits of the district judge’s rulings should be pursued on direct appeal, and judicial complaints which allege misconduct “directly related to the merits of [the judge’s] decision,” such as this complaint, must be dismissed. 28 U.S.C. § 352(b)(1)(A)(ii); accord J.C.U.S. Rule 11(c)(1)(B).

The judicial complaint “lack[s] sufficient evidence to raise an inference that misconduct has occurred or that a disability exists” and must be dismissed. J.C.U.S. Rules 11(c)(1)(D); accord 28 U.S.C. § 352(b)(1)(A)(iii). To the extent complainant asserts claims against court staff other than the district judge, those claims are beyond the scope of the judicial complaint procedure because the judicial complaint procedure is limited to 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.

November 1, 2016



William Jay Riley, Chief Judge
Eighth Circuit