

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-16-90063

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In re Complaint of John Doe<sup>1</sup>

This is a judicial complaint filed on October 7, 2016 by a pro se litigant under supervised release against the United States district court judge who dismissed complainant's motion for reconsideration of the district court's previous denial of post-conviction relief.

Since complainant's criminal conviction, he has filed successive unsuccessful motions challenging his sentence under 28 U.S.C. § 2255. In 2011, complainant moved to set aside a 2003 judgment denying relief. The district judge denied complainant's motion and his following motion for reconsideration of that order.

Five years later, in this judicial complaint, complainant alleges the district judge improperly dismissed his petition for relief and deprived complainant of procedural due process under the Fifth Amendment to the United States Constitution. Complainant claims the district judge "acknowledg[ed] that [complainant] was entitled to some relief . . . but refused to address a claim found within complainant's 2255 motion which was disputed by the government, but was never adjudicated." Complainant alleges the district judge has "concealed his misconduct" and "continues to utilize the illegal sentence and conviction to receive unjust profits and gains where

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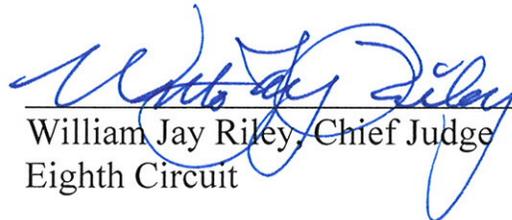
<sup>1</sup>Under Rule 4(f)(1) of the Rules Governing Complaints of Judicial Misconduct and Disability of the Eighth Circuit (E.C.), the names of the complainant and the judge complained about are to remain confidential, except in special circumstances not present here.

he has an interest in the judgment . . . while complainant remains under the custody of the United States through Supervised Release and within a halfway house.”

This judicial complaint must be dismissed because its allegations are “directly related to the merits of a decision or procedural ruling,” specifically, the district judge’s denial of the complainant’s motion for post-conviction relief. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rules 3(h)(3)(A), 11(c)(1)(B). The complainant’s assertions “lack[] sufficient evidence to raise an inference that misconduct has occurred” and are “frivolous.” 28 U.S.C. § 352(b)(1)(A)(iii); J.C.U.S. Rules 11(c)(1)(C), (D).

The complaint is dismissed.

December 7, 2016



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William Jay Riley, Chief Judge  
Eighth Circuit