

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-16-90064 / 08-16-90065

In re Complaint of John Doe¹

These are two judicial complaints filed on October 11, 2016 by a pro se civil litigant against the United States magistrate judge and the district court judge who presided over complainant's pro se civil rights lawsuit. Adopting the magistrate judge's report and recommendation, the district judge dismissed complainant's complaint with prejudice.

In these judicial complaints, complainant alleges the district court and magistrate judges "personally violated their oaths of office" while presiding over complainant's civil lawsuit involving a protest of federal tax laws. Complainant's particular recitations of misconduct are somewhat difficult to understand. Complainant claims he is "'one of the free, sovereign and independent people of the united States' [sic] per the *Definitive Treaty of Peace, Paris 1783*," and the magistrate judge should have received into evidence certain sworn declarations of complainant's status and his "Revocation of Election to pay income tax." Complainant claims the magistrate judge "violated his oath of office by allowing answers, briefs and testimony from the respondents' attorneys—'esquires,' on May 11, 2016, date of hearing for 'default judgment' and on other submissions." Complainant asserts the magistrate judge "failed to recognize federal law, applicable case law, [and] treaty law" when he recommended dismissing his claim.

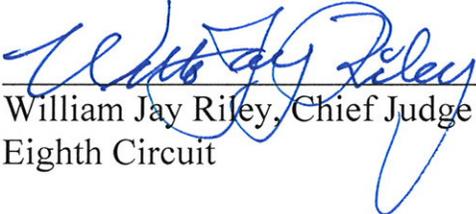
¹Under Rule 4(f)(1) of the Rules Governing Complaints of Judicial Misconduct and Disability of the Eighth Circuit (E.C.), the names of the complainant and the judges complained about are to remain confidential, except in special circumstances not present here.

It is “unclear” to the complainant “whether [complainant’s] claim was ever brought before” the district judge’s review and “unknown” whether the district judge ever received complainant’s “claim documents.” Complainant requests “[r]emand for [a] three-judge, Article III panel review.”

“An allegation that calls into question the correctness of a judge’s ruling, . . . without more, is merits-related.” Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 3(h)(3)(A). This judicial complaint contains allegations against the district and magistrate judges challenging their decisions directly related to the merits of the dismissal of complainant’s lawsuit and must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); J.C.U.S. Rule 11(c)(1)(B). The complainant’s remaining allegations are “frivolous [and] lack[] sufficient evidence to raise an inference that misconduct has occurred.” 28 U.S.C. § 352(b)(1)(A)(iii); see J.C.U.S. Rules 11(c)(1)(C) and (D). A “three-judge, Article III panel review” is provided in a direct appeal and is not available through the judicial complaint process.

The complaint is dismissed.

December 7, 2016



William Jay Riley, Chief Judge
Eighth Circuit