

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-16-90072

In re Complaint of John Doe¹

This is a judicial complaint filed November 30, 2016, by an incarcerated pro se civil litigant against the United States District Court judge who denied the complainant additional time to arrange payment of a filing fee and also denied the complainant additional time for discovery.

The complainant alleges the district judge “demonstrates a personal hate towards inmates which manifests itself in her attempts to use her power in a corrupt manner to OBSTRUCT proceedings that seek only to have a fair analysis and pursuit of justice.” As an example of this alleged hatred, the complainant claims the district judge “issued an order that was literally IMPOSSIBLE to honor regarding payment of [the] filing fee” because the complainant received the order the same day the order required the filing fee to be paid. The complainant compares the district judge’s order to a similar case he filed in a different district, in which he asked for more time to pay the filing fee and the district court granted him 30 days. According to the complainant, the district judge in this case “made sure to issue the order so that [the complainant] would have ZERO Days to arrange the payment and fullfill [sic] the order” and the timing of the order “was obviously planned.”

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

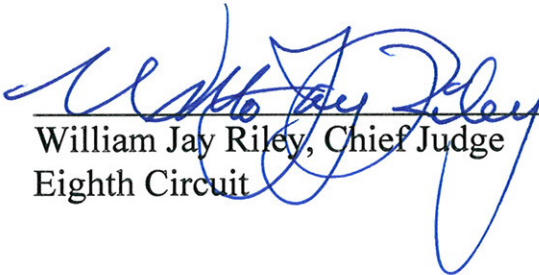
The complainant claims he attempted to pay his fee as soon as he received the order, but the district judge dismissed his case and he had to pay a second filing fee to appeal. However, the district judge noted in an order filed October 25, 2016, that the complainant received his case number shortly after May 5, 2016, and was able to arrange payment at that time, so the complainant's argument he did not have enough time to pay the fee was meritless. The order also noted the complainant could merely have resubmitted his complaint with the required filing fee to commence his lawsuit.

The complainant also alleges the district judge "trie[d] to obstruct justice and deny rights" by denying his request for five extra days of discovery in a second civil case due to denial of legal access. The complainant states the district judge "has a long history of such actions" and that the judge "thinks she is above the law and any illusion of ethics."

"An allegation that calls into question the correctness of a judge's ruling," such as the district judge's decision to deny the complainant's requests for more time to arrange payment and for discovery, "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). The complainant presents no evidence of the district judge's "personal hate towards inmates" other than an allegation that a different district judge allowed him extra time to pay his filing fee. Allegations of bias may be merits-related, where, as in this case, the only evidence of such bias is the judge's rulings. See id. The complaint's allegations are "frivolous [and] lacking sufficient evidence to raise an inference that misconduct has occurred." 28 U.S.C. § 352(b)(1)(A)(iii); see also J.C.U.S. Rule 11(c)(1)(C), (D); E.C. Rule 4(c)(3).

The complaint is dismissed.

February 1, 2017



William Jay Riley, Chief Judge
Eighth Circuit