

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP Nos. 08-17-90007 / 08-17-90008

In re Complaints of John Doe¹

These are judicial complaints filed on January 17, 2017, by a pro se civil litigant against the United States magistrate judge and district court judge who issued rulings adverse to the complainant.

Almost ten years ago, a federal judge in another circuit permanently barred the complainant from filing a civil action in any federal court without first obtaining permission from the court to do so. The complainant recently filed suit in an Eighth Circuit federal court anyway, alleging a law firm was misusing this pre-filing injunction against him in various state court cases initiated by the complainant. In the time his case has been pending, the complainant has failed to serve process on the defendants, but has nonetheless presented the district court with many difficult-to-decipher motions. The magistrate judge and district court judge have responded as necessary to these motions, but given the complainant's apparent unwillingness to serve the defendants, the case has progressed little. Two district court orders are particularly noteworthy: In one order, the magistrate judge (a) gave the complainant a deadline to serve the defendants before the magistrate judge would recommend dismissal, (b) warned the complainant to reduce his non-compliant and abundant filings, and (c) denied as moot two of the complainant's pending motions concerning transferring his case, given that the Judicial Panel on Multidistrict Litigation denied

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

the complainant's transfer request. In another order, the district court judge denied the complainant's motion for recusal of the two judges, finding the complainant's generalized and unsupported allegations of bias and prejudice insufficient to necessitate their disqualification.

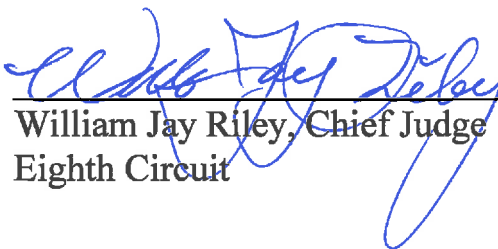
The complainant then filed a notice of appeal, seeking review of orders issued by the magistrate judge and district court judge. The complainant also wishes to challenge the ten-year-old pre-filing injunction. Although the complainant sought review from the United States Court of Appeals for the Federal Circuit—due to its “nationwide jurisdiction over U.S. District Court Orders” and the fact the “pre-filing injunction order is a nationwide order”—the appeal was docketed for review by the United States Court of Appeals for the Eighth Circuit. In his judicial complaint, the complainant accuses the magistrate judge and district court judge of “enforcing [the] defective, Sua Sponte pre-filing injunction opinion.” The complainant further alleges the named judges have a “pattern and practice . . . [of] refus[ing] to comply with Federal Rules of Appellate Procedure, Rule 4.” According to the complainant, he “did not request appeal to the Eighth Circuit and now the U.S. Court of Appeals for the Federal Circuit will not accept plaintiff appeal because of [the magistrate judge's and district court judge's] misconduct with plaintiff appeal.”

The judicial complaints must be dismissed because they are “frivolous, [and] lacking sufficient evidence to raise an inference that misconduct has occurred.” 28 U.S.C. § 352(b)(1)(A)(iii); accord Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(c)(1)(C)-(D). Though the complainant alleges the magistrate judge and district court judge engaged in “misconduct,” there are no factual allegations whatsoever that fit within the definition provided in the Rules that govern judicial complaints. See J.C.U.S. Rule 3(h) (defining “misconduct”). Instead the claims in the judicial complaints relate only to the substance of certain orders against the complainant and where his appeal challenging those orders was filed. Thus, the judicial complaints

are “directly related to the merits of a decision or procedural ruling,” which also warrants dismissal. 28 U.S.C. § 352(b)(1)(A)(ii); accord J.C.U.S. Rule 3(h)(3)(A).

The complaints are dismissed.

March 9, 2017



William Jay Riley, Chief Judge
Eighth Circuit