

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-14-90008

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

This is a judicial complaint filed on April 11, 2014, by a federal inmate against the United States magistrate judge who presided over two of the complainant's criminal cases. The complainant's first criminal case was dismissed because the complainant was found to be mentally incompetent to stand trial. In the second criminal case, two separate juries found the complainant guilty of a total of six counts. The complainant did not raise the competency issue in the second criminal case until after the first trial but before the first sentencing, the second trial, and the second sentencing. After several psychological assessments and a competency hearing, the district court judge found the complainant competent for the first sentencing (and the second trial and sentencing) and declined to find, retroactively, the complainant incompetent to have stood for the first trial. The complainant appealed, and the United States Court of Appeals for the Eighth Circuit affirmed the district court's decisions in both phases of the second criminal case, including the district court's competency findings.

In this judicial complaint, the complainant alleges the magistrate judge "was well aware of the [complainant's] Mental and Medical issues, but yet allowed the [complainant] to be [tried in the second criminal case] while legally Incompetent, violating the [complainant's] Due Process of Law." The complainant states the

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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.

magistrate “failed to do his job” because the magistrate judge “should [have] alerted or notified the District Court of the [complainant’s] Mental Issues and had [the complainant] re-evaluated prior to any Trial.” The complainant asserts the magistrate judge’s failure to raise the issue of the complainant’s competency sua sponte “clearly violat[ed the complainant’s] Due Process of Law and any such Fair Trial. Due Process guarantees that a defendant be competent at ALL stages of the criminal proceedings against him, (Trial and Sentencing).”

In addition, the complainant claims “his Fair Trial of Due Process” was “violat[ed]” because “his [co-defendant] was TRIED with him” in the second criminal case.

The complainant’s allegations against the magistrate judge must be dismissed because they directly relate to the merits of the judge’s decisions and are therefore not proper subjects of a judicial complaint. 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.) Rule 11(c)(1)(B). “An allegation that calls into question the correctness of a judge’s ruling, . . . without more, is merits-related.” J.C.U.S. Rule 3(h)(3)(A). The complainant’s allegations of judicial misconduct “lack[] 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)(D); E.C. Rule 4(c)(3).

The complainant previously filed a judicial complaint against the same magistrate judge on February 1, 2012. That judicial complaint was dismissed. As the complainant has already been advised, a judicial complaint is not the proper venue to challenge the merits of a judge’s substantive decisions. Rather, such decisions must be challenged on appeal, which the complainant has already done.

The complainant’s allegations against the magistrate judge here do not overlap with his 2012 judicial complaint allegations against the same magistrate judge. Yet

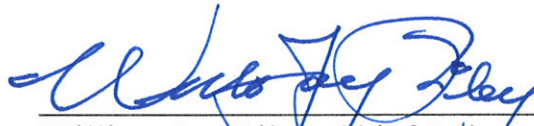
the complainant is warned that abuse of the judicial complaint process will result in the imposition of conditions limiting continued access to the process:

If a complainant files frivolous, . . . or repetitive complaints, or otherwise abuses the complaint procedure, the judicial council's review panel (as established by Rule 8), upon the request of the chief judge of the circuit and after affording the complainant an opportunity to respond in writing, may restrict or impose conditions upon the complainant's use of the complaint procedure, including requiring the complainant to obtain prior permission of the chief judge of the circuit before filing another complaint.

E.C. Rule 1(f).

The complaint is dismissed.

May 29, 2014



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William Jay Riley, Chief Judge  
Eighth Circuit