

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP Nos. 08-15-90062/08-15-90063

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

These are consolidated judicial complaints filed on November 30, 2015, against a magistrate judge and a district judge. The complaints arise out of a civil lawsuit the complainant filed in federal district court, in which he sought permission to proceed in forma pauperis (IFP). The magistrate judge found the complainant met the financial requirements for IFP status, but recommended denying the complainant's application because he failed to state a claim on which relief could be granted.

The complainant objected to the magistrate judge's report and asked the district judge to reconsider his eligibility to proceed IFP. About a month later, the complainant sought to withdraw his objection and his IFP application, declaring the district court's delay in responding "coupled with the Court's other discriminatory behavior" had "completely eroded [the complainant's] faith in the judiciary." Accordingly, the district judge issued an order (1) stating the complainant had withdrawn his objection and IFP application, (2) adopting the magistrate judge's report and recommendation, (3) dismissing the complainant's lawsuit, and (4) denying his IFP application as moot.

The complainant responded with an "order clarification request" asking for his objection to "remain part of the official case file" because, as the complainant now

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

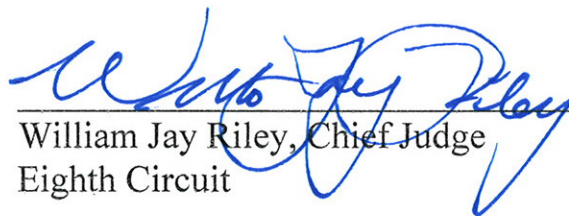
puts it, his attempt to withdraw it was “illegal.” He also asked the district judge to amend her order to reflect that he had voluntarily withdrawn his IFP application and the underlying lawsuit, so the dismissal would not stop him “from pursuing all of the case allegations in a future complaint.” The district judge treated the complainant’s request as a motion and denied it. The district judge also issued a judgment resolving the complainant’s case in accordance with her earlier order. The judgment included standard language that the complainant’s case “came to trial or hearing before the Court.” The complainant then filed a “request to file a motion for reconsideration,” which the district judge also denied. The complainant declares the judges’ several rulings and statements were “grossly discriminatory, grossly prejudicial, grossly felonious and grossly fraudulent” and “demands” that both judges be “confine[d].”

The alleged misconduct the complainant describes is all “directly related to the merits of [the judges’] decision[s] [and] procedural ruling[s]” and so cannot be raised in judicial complaints. 28 U.S.C. § 352(b)(1)(A)(ii); accord Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(c)(1)(B). The complainant’s conclusory allegations that the judges’ rulings were discriminatory or reflected prejudice, though not inherently merits-related, are subject to dismissal as well because in this case they are unsupported except by reference to the rulings themselves. See J.C.U.S. Rule 3(h)(3)(A). In short, the judicial-complaint process is not a vehicle for the complainant to challenge how the magistrate judge recommended disposing of his case or how the district judge chose to do so.

In light of the complainant’s demands for the judges’ “confinement,” I also note that ordering incarceration is well beyond the scope of the judicial-complaint process, see 28 U.S.C. § 354; J.C.U.S. Rules 19(b), 20(b), not to mention my limited authority on initial review, see 28 U.S.C. § 352(a)-(b); J.C.U.S. Rule 11(a).

The complaints are dismissed.

February 8, 2016



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William Jay Riley, Chief Judge  
Eighth Circuit