

## JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-17-90016

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

This is a judicial complaint filed in February 2017 by an inmate against the United States district court judge presiding over the complainant's criminal case. At the complainant's request, the district judge recently ordered the complainant to undergo a psychiatric examination. That examination is not yet complete, and the complainant has not yet been sentenced.

The complainant's over-arching allegation is that the district judge "has not been watchful of [the complainant's] constitutional rights" and has in fact "violated three of [the complainant's] constitutional rights the 5th, 6th, and the 14th." More specifically, the complainant alleges that the district judge has "favored the government" by denying the complainant's motions. The complainant also makes several claims against individuals other than the judge: the police officer who "tased" the complainant, the prosecutor who charged the complainant with "every charge" imaginable, and "[t]he two court-appointed attorneys that wouldn't present [the complainant's] evidence." Additionally, the complainant raises "procedural and substantive challenges [sic]" to his conviction, contending the district judge "failed to make a proper inquiry" into the complainant's mental competency and refused to appoint him a mental health professional. The complainant points to these allegations

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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.

as proof his case is “being taken so personal,” and asks a court to “FREE [him] of these bogus charges.”

A majority of the allegations in the complaint are “directly related to the merits of a decision or procedural ruling,” and therefore must be dismissed. 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); see also J.C.U.S. Rule 3(h)(3)(A) (“An allegation that calls into question the correctness of a judge’s ruling . . . without more, is merits-related.”). The complainant also maintains the police officer, prosecutor, and court-appointed attorneys acted improperly, but does not explain how their alleged misconduct constitutes judicial misconduct. See 28 U.S.C. § 351(d)(1); J.C.U.S. Rule 4 (“A complaint under these Rules may concern the actions or capacity only of judges of United States courts of appeals, judges of United States district courts, judges of United States bankruptcy courts, United States magistrate judges, and judges of the courts specified in 28 U.S.C. § 363.”). The complainant’s charges against the district judge are “frivolous.” 28 U.S.C. § 352(b)(1)(A)(iii); accord J.C.U.S. Rule 11(c)(1)(C).

In November 2016, the complainant filed a similar judicial complaint against the same district judge. (JCP 08-16-90071). He filed this current judicial complaint before the first was resolved. The complainant is reminded that this is not the proper method for challenging procedural or substantive aspects of a conviction, or for making allegations against non-judges. The complainant is also warned that abuse of the judicial complaint process will result in the imposition of conditions limiting continued access to this process:

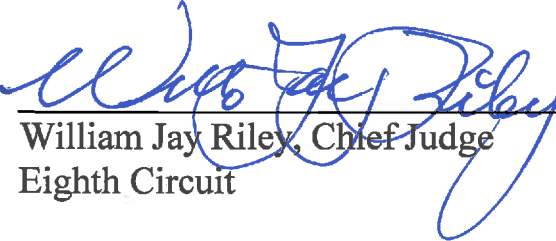
A complainant who has filed repetitive, harassing, or frivolous complaints, or has otherwise abused the complaint procedure, may be restricted from filing further complaints. After giving the complainant an opportunity to show cause in writing why his or her right to file further complaints should not be limited, a judicial council may prohibit,

restrict, or impose conditions on the complainant's use of the complaint procedure.

J.C.U.S. Rule 10(a); see also E.C. Rule 1(f).

The complaint is dismissed.

March 7, 2017



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William Jay Riley, Chief Judge  
Eighth Circuit