

## JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-23-90061

JCP No. 08-23-90062

JCP No. 08-23-90063

JCP No. 08-23-90064

JCP No. 08-23-90065

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

These are judicial complaints filed by an inmate (“complainant”) against three United States circuit judges, one United States district judge, and one United States magistrate judge. The judicial complaints concern the disposition of the complainant’s petition for a writ of habeas corpus. See 28 U.S.C. § 2254. They were referred to me, “the most-senior active circuit judge not disqualified,” for review and appropriate action. See Rule 25(f) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (“J.C.U.S. Rules”); Rule 18(f) of the Eighth Circuit Rules Governing Complaints of Judicial Misconduct and Disability (“Eighth Circuit Rules”). For the following reasons, I dismiss the complaints in their entirety.

First, the complaints allege that the magistrate judge “committed treason” in violation of 18 U.S.C. § 2381 by issuing a show-cause order and then failing to afford the complainant a hearing under 28 U.S.C. § 2243 and recommending dismissal of the habeas petition with prejudice, and the district judge “committed treason” by dismissing the complainant’s petition with prejudice without affording 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, the names of the complainant and the judicial officer complained against are to remain confidential, except in special circumstances not here present.

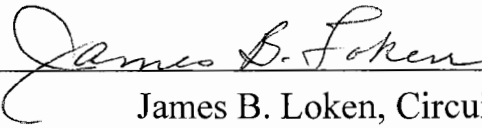
complainant a hearing, because the dictionary definition of “levies war” includes “an act of forcible opposition” to any federal public law. The complaints further allege that the three circuit judges, who dismissed the complainant’s appeal for lack of jurisdiction as untimely, when timeliness “is not a jurisdictional bar,” committed treason by “giving aid (assistance) and comfort” to the enemy. By “using the rules and procedures” to “manipulate the system for a desired outcome,” the complaints allege, all the judges have “[i]mpaired [the] value of the Department of Justice.” The complaints further allege the judges have committed “Legal Malpractice” by neglecting to apply the Code of Conduct for U.S. Judges; refused to grant the complainant the right to be heard; breached the legal duty of care; committed “Legal Abuse” by issuing opinions without adequate basis to the detriment of the complainant’s right to be heard; and refused to adjudicate the complainant’s case fairly and impartially. The complainant requests “a hearing with me via telephone or videoconference . . . since I didn’t properly get to be heard.”

These complaints are contrary to the fundamental principle that complaints of judicial misconduct and disability are not an alternative avenue to appeal the merits of judges’ decisions. Allegations must be dismissed if they are directly related to the merits of judges’ decisions or procedural rulings. See 28 U.S.C. § 352(b)(1)(A)(ii); J.C.U.S. Rules 4(b)(1), 11(c)(1)(B). “An allegation that calls into question the correctness of a judge’s ruling is merits-related.” J.C.U.S. Rule 3(h)(3)(A). Allegations of judicial bias or improper motive are merits-related when, as in this case, the only support for the allegations are the merits of the judges’ rulings. Rule 3(h)(3)(A). An appeal is the proper way to challenge the merits of a judge’s rulings. A litigant dissatisfied with the merits of a ruling by a three-judge Eighth Circuit panel must appeal by petitioning the Eighth Circuit for en banc review by the full court, or the Supreme Court of the United States for a writ of certiorari to review an Eighth Circuit decision. The Judicial Council may not investigate or reopen a judicial proceeding. See Eighth Circuit Rule 1(e).

To the extent the judicial complaints challenge the decisions and orders of the subject judges, they must be dismissed as “directly related to the merits of a decision or procedural ruling.” To the extent the judicial complaints allege that the subject judges “committed treason,” treated the complainant unfairly or impartially, or engaged in other judicial misconduct, such allegations are “frivolous, lacking sufficient evidence to raise an inference that misconduct has occurred.” 28 U.S.C. § 352(b)(1)(A)(iii); J.C.U.S. Rule 11(c)(1)(C), (D).

Accordingly, the judicial complaints are dismissed.

April 18, 2024

  
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James B. Loken, Circuit Judge  
United States Court of Appeals for the Eighth Circuit