

**JUDICIAL COUNCIL OF THE  
TENTH CIRCUIT**

IN RE: COMPLAINT UNDER THE  
JUDICIAL CONDUCT AND  
DISABILITY ACT

Nos. 10-14-90012 & 10-14-90013

Before **BRISCOE**, Chief Judge.

**ORDER**

Complainant has filed a complaint of judicial misconduct against a district judge and a magistrate judge in this circuit. My consideration of this complaint is governed by 1) the misconduct rules issued by the Judicial Conference of the United States, entitled *Rules for Judicial-Conduct and Judicial-Disability Proceedings* (the “JCD Rules”); 2) the federal statute dealing with judicial misconduct, 28 U.S.C. § 351 *et seq.*; and 3) the “Breyer Report,” a study by the Judicial Conduct and Disability Act Study Committee, headed by Supreme Court Justice Stephen Breyer, entitled *Implementation of the Judicial Conduct and Disability Act of 1980*. The Breyer Report may be found at: <http://www.supremecourt.gov/publicinfo/breyercommitteereport.pdf>. To the extent that there are any relevant prior decisions of the full Judicial Council of this circuit which are consistent with those authorities, they may also govern my consideration of this complaint.

The JCD Rules and this circuit's local misconduct rules are available to complainants on the Tenth Circuit's web page at: <http://www.ca10.uscourts.gov/ce/misconduct>. Paper copies are also furnished by the Circuit Executive's Office upon request. In accord with those rules, the names of the complainant and subject judges shall not be disclosed in this order. *See* JCD Rule 11(g)(2).

This complaint is essentially a review of the docket sheet from complainant's underlying case, in which complainant takes issue with various rulings by the court including procedural matters and discovery. These claims are not cognizable as misconduct because they are "directly related to the merits of a decision or procedural ruling." JCD Rule 11(c)(1)(B). As explained in the Breyer Report, this exclusion of matters related to the merits of underlying cases protects the independence of the judges deciding those cases. *See* Breyer Report, App. E., ¶ 2.

Complainant accuses the judges of denying due process and violating complainant's civil rights by these rulings. Complainant questions whether the rulings are the product of "mental issues" on the part of the judges or perhaps bribery. Complainant provides no evidence that would support either of these bases. The JCD Rules require complainants to support their allegations with "sufficient evidence to raise an inference that misconduct has occurred." *See* JCD Rule 11(c)(1)(D). Speculation about possible improper motive or disability, without supporting evidence, does not satisfy this standard.

Accordingly, this complaint is dismissed pursuant to JCD Rule 11(c). The Circuit Executive is directed to transmit this order to complainant and copies to the subject judges and the Judicial Conference Committee on Judicial Conduct and Disability. *See* JCD Rule 11(g)(2). To seek review of this order, complainant must file a petition for review by the Judicial Council. The requirements for filing a petition for review are set out in JCD Rule 18(b). The petition must be filed with the Office of the Circuit Executive within 35 days of the date of the letter transmitting this order. *Id.*

So ordered this 31st day of March, 2014.

/s/ Mary Beck Briscoe

Honorable Mary Beck Briscoe  
Chief Circuit Judge