

**JUDICIAL COUNCIL OF THE
TENTH CIRCUIT**

IN RE: COMPLAINT UNDER THE
JUDICIAL CONDUCT AND
DISABILITY ACT

Nos. 10-15-90032 & 10-15-90033

Before **TYMKOVICH**, Chief Judge

ORDER

Complainant has filed a complaint of judicial misconduct against two district judges 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”); and 2) the federal statute dealing with judicial misconduct, 28 U.S.C. § 351 *et seq.* 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 accordance with those rules, the names of the complainant and subject judges shall not be disclosed in this order. *See* JCD Rule 11(g)(2).

Complainant alleges two district court judges have engaged in misconduct by involving themselves in organized crime. Specifically, complainant alleges one of the subject judges “dismissed [several] hard core criminals” and the other subject judge is working with “crime bosses” and “state mafia police.” While allegations of conspiracy and criminal activity can state valid claims for misconduct, this conspiracy claim fails because it is completely unsupported. 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).

Complainant also appears to take issue with the separate filing fees he was ordered to pay for his two cases. He alleges this constitutes cruel and unusual punishment. Nevertheless, complainant does not provide any evidence to support an inference of misconduct. A review of the record indicates that a final order was entered in complainant’s first case before complainant filed his second case and that the two cases involve different parties and different issues. Further, there is nothing on the record to suggest that either of the subject judges was involved in the decision to open a second case and, even if they were, this claim is not cognizable as misconduct, without an allegation of improper motive, because it is “directly related to the merits of a decision or procedural ruling.” JCD Rule 11(c)(1)(B).

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 42 days after the date of the chief judge's order. *Id.*

So ordered this 9th day of February, 2016.

/s/ Timothy M. Tymkovich

Honorable Timothy M. Tymkovich
Chief Circuit Judge