

**JUDICIAL COUNCIL OF THE
TENTH CIRCUIT**

IN RE: COMPLAINT UNDER THE
JUDICIAL CONDUCT AND
DISABILITY ACT

Nos. 10-17-90004 & 10-17-90005

Before **TYMKOVICH**, Chief Judge

ORDER

Complainant has filed a complaint of judicial misconduct against a two district judges in this circuit. My consideration of this complaint is governed by the misconduct rules issued by the Judicial Conference of the United States, entitled *Rules for Judicial-Conduct and Judicial-Disability Proceedings* (the “JCD Rules”), the federal statutes addressing judicial conduct and disability, 28 U.S.C. § 351 *et seq.*, and relevant prior decisions of the full Judicial Council of this circuit that are consistent with those authorities.

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 judges engaged in misconduct in connection with complainant’s civil matter. Complainant contends that the district judge appointed to his

civil matter is unable to be fair and impartial, due to complainant's association with other federal agencies. Complainant's previous complaint against the same judge, alleging bias, was dismissed. Complainant also takes issue with what he alleges was a clerk's office error, and contends the second subject judge was responsible for overseeing the work of the clerk's office.

Complainant's allegations of partiality and unfairness are baseless. While allegations of partiality can state a valid claim for misconduct, this 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).

Further, complainant's allegation that the clerk's office erred and that the second subject judge was responsible for this error is also meritless. Even if the allegation is true, the judge's conduct was not prejudicial to the effective and expeditious administration of the business of the courts and can be dismissed pursuant to JCD Rule 11(c)(1)(A).

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 4th day of August, 2017.

/s/ Timothy M. Tymkovich

Honorable Timothy M. Tymkovich
Chief Circuit Judge