

**JUDICIAL COUNCIL OF THE
TENTH CIRCUIT**

IN RE: COMPLAINT UNDER THE
JUDICIAL CONDUCT AND
DISABILITY ACT

Nos. 10-19-90025 through 10-19-90029

Before **TYMKOVICH**, Chief Judge

ORDER

Complainant has filed a complaint of judicial misconduct and disability against three circuit judges, one district judge, and one magistrate judge 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.* (the “Act”), 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 filed a complaint against the circuit, district, and magistrate judges associated with his case. Complainant also makes allegations against several non-judges,

including relevant clerks of court and intake clerks. As an initial matter, allegations against non-judges are not cognizable misconduct under the Act. *See* JCD Rule 1(b) (defining covered judge as “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”).

Complainant also appears to take issue with several of the circuit, district, and magistrate judges’ rulings. 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); *see also* Commentary to JCD Rule 4 (stating that “[a]ny allegation that calls into question the correctness of an official decision or procedural ruling of a judge—without more—is merits-related”).

Finally, complainant contends that “judicial disability is plausible” for the magistrate judge and surmises that the district court judge is covering for the magistrate judge’s incompetence. These claims, however, fail because they are 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).

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 order. *Id.*

So ordered this 21st day of November, 2019.

A handwritten signature in black ink, reading "Timothy M. Tymkovich". The signature is written in a cursive style with a large initial 'T'.

Honorable Timothy M. Tymkovich
Chief Circuit Judge