

**JUDICIAL COUNCIL OF THE
TENTH CIRCUIT**

IN RE: COMPLAINT UNDER THE
JUDICIAL CONDUCT AND
DISABILITY ACT

Nos. 10-19-90035 through 10-19-90038
and
10-19-90056 through 10-19-90058

Before **TYMKOVICH**, Chief Judge

ORDER

Complainant has filed complaints of judicial misconduct against six circuit judges and one district judge in the Tenth Circuit. My consideration of these complaints are 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 filed three complaints alleging that judges in this circuit engaged in misconduct. Complainant appears to take issue with a ruling from three of the circuit

judges and asserts that the ruling was an effort to conceal a long-pattern of criminal conduct in the district in which his case originated. Complainant adds that one of the circuit judges also committed mail/wire fraud by transmitting false statements. As to the remaining three circuit judges, complainant contends the judges did not follow precedent when issuing their ruling. Finally, regarding the district judge, complainant alleges the judge engaged in a conspiracy with the Department of Justice to deprive complainant of his rights, imposed fraudulent filing restrictions, and committed mail/wire fraud.

Complainant's challenges to the rulings of the circuit and district judges 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").

Complainant's contentions that the judges are engaged in a conspiracy, committed fraud, or issued orders with an improper motive are baseless. While these types of allegations can state valid claims for misconduct even when the allegations relate to a judge's ruling, *see* Commentary to JCD Rule 4, these claims 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, these complaints are 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.*

Because complainant has filed repetitive frivolous complaints regarding alleged misconduct by the judges in this Circuit, it is

ORDERED that the complainant show cause why he should not be enjoined from filing further repetitive and frivolous complaints of judicial misconduct against judges of this Circuit. *See* JCD Rule 10(a). Complainant is directed to file an answer with the Circuit Executive by December 7, 2019.

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, flowing style.

Honorable Timothy M. Tymkovich
Chief Circuit Judge