

**JUDICIAL COUNCIL OF THE  
TENTH CIRCUIT**

IN RE: COMPLAINT UNDER THE  
JUDICIAL CONDUCT AND  
DISABILITY ACT

No. 10-19-90060

Before **TYMKOVICH**, Chief Judge

**ORDER**

Complainant has filed a complaint of judicial misconduct against a district 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.*, 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 judge shall not be disclosed in this order. *See* JCD Rule 11(g)(2).

Complainant, a pro se litigant, alleges the subject judge engaged in misconduct while assigned to a civil matter in which complainant filed a motion to intervene. It

appears that complainant contends the subject judge intentionally dismissed the case without notice to deny her access to the courts. Complainant also alleges the subject judge may have engaged in ex parte communications with a state court judge and acted in concert with an attorney. Complainant surmises she is on the court's "hit list" because she is a pro se party.

As an initial matter, insofar as complainant may be making allegations against state court judges or attorneys, those claims are not cognizable misconduct. *See* JCD Rule 1(b).

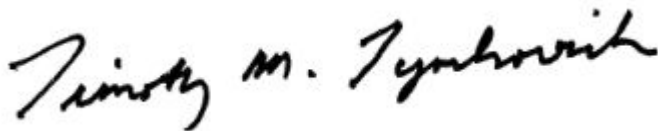
Complainant's allegations regarding the judge improperly dismissing the case and providing inadequate notice are not cognizable as misconduct because they are "directly related to the merits of a decision or procedural ruling." JCD Rule 11(c)(1)(B); *see also* Commentary to JCD Rule 4 (stating that "[a]ny allegation that calls into question the correctness of an official decision or procedural ruling of a judge—without more—is merits-related").

Complainant's assertions that the judge acted with an improper motive, engaged in ex parte communications, and conspired with an attorney are dismissed as unsupported. While these types allegations can state valid claims for misconduct even when they 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). Complainant points to a docket entry to support her assertions but there is nothing in the docket entry to suggest that the judge acted with an

improper motive. The remainder of complainant's evidence is related to the allegations she makes against people other than the subject judge.

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 judge 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 26th day of May, 2020.

A handwritten signature in black ink that reads "Timothy M. Tymkovich". The signature is written in a cursive, flowing style.

Honorable Timothy M. Tymkovich  
Chief Circuit Judge