

**JUDICIAL COUNCIL OF THE  
TENTH CIRCUIT**

IN RE: COMPLAINT UNDER THE  
JUDICIAL CONDUCT AND  
DISABILITY ACT

No. 10-20-90003

Before **TYMKOVICH**, Chief Judge

**ORDER**

Complainant has a complaint of judicial misconduct 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 name of the complainant and subject judge shall not be disclosed in this order. *See* JCD Rule 11(g)(2).

The complainant takes issue with a general order issued by the subject judge. He asserts that in issuing the order, the subject judge violated her oath of office and the Constitution. These claims are not cognizable as misconduct because they are “directly

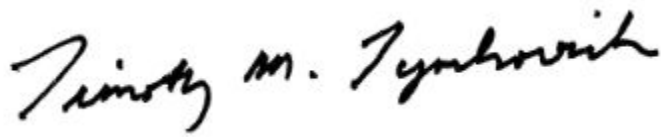
related to the merits of a decision or procedural ruling.” JCD Rule 11(c)(1)(B); *see also* Commentary to JCD Rule 4 (stating that “[a]ny allegation that calls into question the correctness of an official decision or procedural ruling of a judge—without more—is merits-related”). “The phrase ‘decision or procedural ruling’ is not limited to rulings issued in deciding Article III cases or controversies.” *Id.*

Complainant also contends the subject judge conspired with others to defraud the court by issuing the general order. While allegations of conspiracy can state a valid claim for misconduct even when the alleged conspiracy relates to a judge’s procedural ruling, *see* Commentary to JCD Rule 4, this conspiracy claim fails because it is completely unsupported. The only support complainant offers for his conspiracy claim is the assertion that the judge’s actions were improper. 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 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 4th day of August, 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