

**JUDICIAL COUNCIL OF THE
TENTH CIRCUIT**

IN RE: COMPLAINT UNDER THE
JUDICIAL CONDUCT AND
DISABILITY ACT

Nos. 10-20-90017 & 10-20-90018

Before **TYMKOVICH**, Chief Judge

ORDER

Complainant has filed a complaint of judicial misconduct against a district judge and a 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.*, 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 the subject judges engaged in misconduct while presiding over a civil case in which she had an interest. Complainant appears to take issue with

several of the judges' rulings in the case. Complainant contends that the subject district judge does not "like the merits" of her claim compared to the opposing party's claim. Complainant also appears to contend the judges should have recognized her as a party to the action but that both judges refused to "look at the record." Complainant asserts the subject district judge has demonstrated bias in his rulings and surmises he "must have extra-judicial motivations" and that he should have recused.

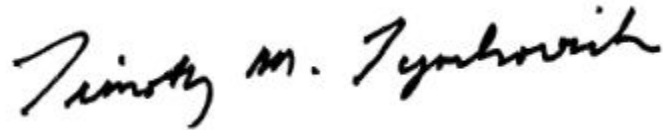
Complainant's claims regarding the judges' rulings, including the subject district judge's failure to recuse, are not cognizable as misconduct because they are "directly related to the merits of a decision or procedural ruling." JCD Rule 11(c)(1)(B); *see also* JCD Rule 4 (stating that "[c]ognizable misconduct does not include an allegation that calls into question the correctness of a judge's ruling, including a failure to recuse").

Further, while allegations of bias and an improper motive 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).

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 14th day of October, 2020.

A handwritten signature in black ink that reads "Timothy M. Tymkovich". The signature is written in a cursive style with a large initial 'T' and a distinct 'M'.

Honorable Timothy M. Tymkovich
Chief Circuit Judge