

**JUDICIAL COUNCIL OF THE  
TENTH CIRCUIT**

IN RE: COMPLAINT UNDER THE  
JUDICIAL CONDUCT AND  
DISABILITY ACT

Nos. 10-20-90032 & 10-20-90033

Before **TYMKOVICH**, Chief Judge

**ORDER**

Complainant has filed a complaint of judicial misconduct and disability 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 that the subject judges engaged in misconduct while assigned to his civil matter in district court. Complainant asserts that both judges made rulings in

“bad faith” and engaged in a “pattern of discrimination and civil rights violations” and “violations of the canons of the Code of Conduct for United States Judges.” Complainant also contends that the district judge suffers from dementia and that the magistrate judge is an alcoholic.

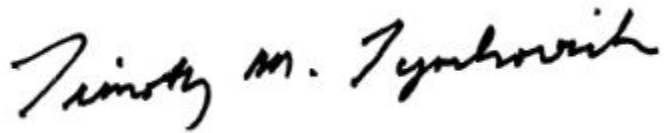
To support his claim, complainant quotes language that he purports was written by one of the judges. The quoted language is not cognizable misconduct. Rather, it is a warning to complainant about the procedural consequences of complainant’s frivolous filings in his civil case. “Because of the special need to protect judges’ independence in deciding what to say in an opinion or ruling . . . [i]f the judge’s language was relevant to the case at hand . . . then the judge’s choice of language is presumptively merits-related and excluded.” JCD Rule 4 cmt.

Complainant’s allegations are otherwise conclusory and unsupported, which are not enough for a misconduct or disability finding. The JCD Rules require complainants to support their allegations with “sufficient evidence to raise an inference that misconduct has occurred or that a disability exists.” *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 1st day of April, 2021.

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

Honorable Timothy M. Tymkovich  
Chief Circuit Judge