

**JUDICIAL COUNCIL OF THE
TENTH CIRCUIT**

IN RE: COMPLAINT UNDER THE
JUDICIAL CONDUCT AND
DISABILITY ACT

Nos. 10-20-90056, 10-20-90057,
& 10-20-90060

Before **HOLMES**, Chief Judge

MEMORANDUM & ORDER

Complainant has filed three complaints of judicial misconduct against two district judges and a magistrate judge in this circuit. The complaints have been consolidated for review. My consideration of these complaints 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:
<https://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 a complaint against a former district judge, a current district judge, and a magistrate judge alleging that they engaged in misconduct in connection with complainant's civil cases. As an initial matter, complainant's allegations against the former district judge are not cognizable misconduct. *See* JCD Rule 1(b) (providing "[a] covered judge is defined under the Act and is limited to judges of United States courts of appeals, judges of United States district courts, judges of United States bankruptcy courts, United States magistrate judges, and judges of the courts specified in 28 U.S.C. § 363"). That judge has fully retired and is no longer covered by the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-364.

As to the remaining two judges, complainant appears to take issue with the judges' rulings against him. 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").

Insofar as complainant may also be suggesting that the district and magistrate judges acted with an improper motive, that claim fails because it is 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 chief judge's order. *Id.*

So ordered this 13th day of December, 2022.

A handwritten signature in black ink, appearing to read "Jerome A. Holmes". The signature is written in a cursive, flowing style.

Honorable Jerome A. Holmes
Chief Circuit Judge