

**JUDICIAL COUNCIL OF THE  
TENTH CIRCUIT**

IN RE: COMPLAINT UNDER THE  
JUDICIAL CONDUCT AND  
DISABILITY ACT

No. 10-22-90011

Before **HOLMES**, Chief Judge

**MEMORANDUM & 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:  
<https://www.ca10.uscourts.gov/cc/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, filed a complaint against the district judge presiding over complainant's civil case. Complainant alleged that the subject judge "illegally" dismissed his case and also appears to assert that the subject judge and others, including the clerk of court and/or clerk's office employees, engaged in treason, conspiracy, and obstruction of justice.

As an initial matter, complainant's allegations against the clerk of court and/or other clerk's office employees 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").

Complainant's claim that the subject judge illegally dismissed his case is not cognizable as misconduct because it is "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 remaining claims also fail. While allegations of conspiracy can state a valid claim for misconduct even when the allegations relate to a judge's ruling, *see* Commentary to JCD Rule 4, complainant's 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 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 6th day of November, 2023.

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