

**JUDICIAL COUNCIL OF THE
TENTH CIRCUIT**

IN RE: COMPLAINT UNDER THE
JUDICIAL CONDUCT AND
DISABILITY ACT

No. 10-22-90012

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.

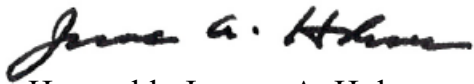
The JCD Rules and this circuit’s local misconduct rules are available to complainants on the Tenth Circuit’s web page at:
<https://www.ca10.uscourts.gov/cc/misconduct>. Paper copies are also furnished by the Circuit Executive’s Office upon request. In accordance with those rules, the names of the complainant and subject judge shall not be disclosed in this order. *See* JCD Rule 11(g)(2).

Complainant, filing pro se, alleges that the judge used language in issuing an order regarding his pro se Writ of Habeas Corpus that demonstrated the judge was biased against him and would retaliate if he continued in his efforts to bring to light facts that he asserts would exonerate him. He interprets this language as threatening and part of an overall effort to avoid addressing facts that he believes undermine the credibility of his conviction. A review of the Order in question reflects that the judge was cautioning the Complainant to be mindful of his language in his filings with the court, and to avoid the use of demeaning comments, lest his doing so serve as an independent basis to strike future filings, dismiss an appeal, or disregard the leniency with which courts normally view pro se filings. The judge cites to legal authority to support this admonishment. The language at issue does not evidence bias; nor does it appear to be retaliatory in nature, and it goes directly to the subject matter of the Order and the underlying Writ. 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”; and, “[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, absent evidence apart from the ruling itself suggesting an improper motive”).

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 10th day of January, 2025.

A handwritten signature in black ink, appearing to read "Jerome A. Holmes". The signature is fluid and cursive, with the first name "Jerome" being more prominent.

Honorable Jerome A. Holmes
Chief Circuit Judge