

**JUDICIAL COUNCIL OF THE
TENTH CIRCUIT**

IN RE: COMPLAINT UNDER THE
JUDICIAL CONDUCT AND
DISABILITY ACT

Nos. 10-24-90007 and 10-24-90008

Before **HOLMES**, Chief Judge

MEMORANDUM & 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 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, pro se in the civil matter below and in this misconduct filing, alleges the magistrate judge has impermissible conflicts that should have merited recusal from

his matter. He further alleges both the magistrate judge and the district judge failed to make appropriate rulings in his underlying civil matter; specifically, by declining to order the United States Marshals Service to serve his complaint on the underlying defendants. A review of the record for this matter reflects Complainant filed this misconduct complaint one day after filing a motion to recuse the magistrate judge. One month later, he filed a motion to withdraw the recusal motion based on a “reassessment” of his position; however, he did not withdraw this complaint, which therefore necessitates our review. The allegation regarding a failure to order the Marshals to serve the underlying defendants 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”).

Additionally, the JCD Rules provide 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.” JCD Rule 4(b)(1). But “[t]he very different allegation that the judge failed to recuse for illicit reasons – i.e., not that the judge erred in not recusing, but that the judge knew he should recuse but deliberately failed to do so for illicit purposes – is not merits-related.” Implementation of the Judicial Conduct and Disability Act of 1980: A Report to the Chief Justice, 239 F.R.D. 116, 222 (2006). An allegation that a judge acted with an improper motive, however, must be supported by sufficient evidence to raise an inference that misconduct has occurred, which Complainant has not provided.

JCD Rule 11(c)(1)(D). Further, a judge's recusal is not necessarily required merely because a judge knows or previously worked with parties to a case.

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 4th day of December, 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