

**JUDICIAL COUNCIL OF THE  
TENTH CIRCUIT**

IN RE: COMPLAINT UNDER THE  
JUDICIAL CONDUCT AND  
DISABILITY ACT

No. 10-24-90028

Before **HOLMES**, Chief Judge

**MEMORANDUM & ORDER**

Two Complainants have filed separate complaints of judicial misconduct against a district judge in this circuit. The complaints have been consolidated for decision because they arise out of the same underlying case and factual circumstances. 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 Complainants and subject judge shall not be disclosed in this order. *See* JCD Rule 11(g)(2).

These complaints stem from an underlying criminal prosecution. The district judge, who is the subject of these complaints, presided over the criminal matter. Complainants raise several issues involving—among other things—sufficiency of evidence, whether restitution was properly calculated, whether the judge and prosecution had information the defense lawyers did not, and whether politics and corporate power played an undue and improper role in the case. To begin, as underscored and detailed below, Complainants identify no evidence in support of their allegations of improper influence, and therefore those allegations are subject to dismissal. JCD Rule 11(c)(1)(D). More broadly, their allegations do not provide a proper basis for cognizable claims of 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”).

The Complainants also argue that the district judge should have recused from presiding over the criminal matter because the judge is married to a state-court judge who presided over separate state-court civil matters regarding the Complainants at the same time that the criminal matter was ongoing. Complainants allege the district judge had a conflict of interest given this situation and, as a result, should have recused. No evidence has been presented by the Complainants or otherwise evident from the record that indicates either the district judge or the judge’s spouse had a personal interest in the outcome of either the criminal or civil actions involving Complainants. Additionally, while both judges were presiding simultaneously, the cases involved two separate

proceedings of distinct legal character (one criminal and the other civil), in two separate courts, in two different systems (one state and one federal), and with no evident interest or gain by either judge regarding the outcomes.

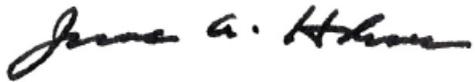
As a general matter, JCD Rule 4(b)(1) states “[c]ognizable misconduct does not include an allegation that calls into question the correctness of a judge’s ruling, including a failure to recuse.” In other words, a judge’s decision whether to recuse ordinarily does not fall within the scope of misconduct review. And the circumstances outlined above do not materially alter this outcome. In particular, without any evidence that either judicial spouse had a personal interest in the two separate cases before them or were influenced by improper motives, the subject judge was not required by the JCD Rules to recuse. Though the subject judge’s failure to recuse does not give rise to a cognizable misconduct claim, it nevertheless would have been prudent for the judge to have disclosed on the record that the spouse was simultaneously serving as the presiding judge in a separate case involving Complainants, so that all parties were aware of the circumstances and given an opportunity to comment or object; it does not appear from a review of the record that such a disclosure was made. This disclosure approach would have helped to forestall, under circumstances like these here, allegations against the subject judge of impropriety or even the appearance of impropriety and more effectively served to “promote[] public confidence in the integrity and impartiality of the judiciary.” Canon 2(A), Code of Conduct for U.S. Judges. But lest there be any doubt about the matter, the subject judge’s failure to recuse under the unique circumstances present here does not support a cognizable claim of misconduct.

Finally, as noted above, Complainants alluded to outside political and corporate-power influences playing a role in the manner in which the district judge presided over the case. Although not stated outright, Complainants intimate that the district judge may have been pressured, or voluntarily agreed, to ensure that a result would be reached in the underlying criminal case that would be palatable to wealthy, politically-connected parties. However, Complainants back up these intimations with nothing more than speculation and conjecture; they provide no supportive evidence, or even information from which one might logically make a reasonable inference that the subject judge acted under such improper influences. While allegations of conspiracy can state a valid claim for misconduct even when the alleged conspiracy relates to a judge's rulings, *see* Commentary to JCD Rule 4, Complainants' suggestions of conspiracy are completely unsupported and thus bootless. 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). Complainants have failed to do so.

Accordingly, these complaints are dismissed pursuant to JCD Rule 11(c). The Circuit Executive is directed to transmit this order to Complainants 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, Complainants 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 5th day of January, 2026.

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

Honorable Jerome A. Holmes  
Chief Circuit Judge