

**JUDICIAL COUNCIL OF THE
TENTH CIRCUIT**

IN RE: COMPLAINT UNDER THE
JUDICIAL CONDUCT AND
DISABILITY ACT

No. 10-24-90032

Before **HARTZ**,* Circuit Judge

MEMORANDUM & ORDER

Complainant has filed a complaint of judicial misconduct against a circuit 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/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 judge shall not be disclosed in this order. *See* JCD Rule 11(g)(2).

*Judge Hartz was assigned to this matter pursuant to JCD Rule 25(f).

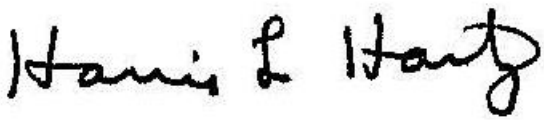
Complainant has previously filed several complaints regarding merits related actions taken by a magistrate judge and two district judges in this circuit. He now files a companion complaint regarding the conduct of a circuit judge, specifically alleging that the circuit judge should have intervened to assign complainant's underlying civil rights case to a district judge other than the judge to whom it was originally assigned. In making these allegations, Complainant appears to be alleging that the merits-based rulings with which he disagrees would not have occurred had the circuit judge intervened in his matter. 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").

Complainant also alleges that the circuit judge engaged in misconduct by not addressing his previous misconduct complaints more quickly. JCD Rule 4(b)(2) states that "[c]ognizable misconduct does not include an allegation about delay in rendering a decision or ruling, unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases." As complainant does not allege that the circuit judge acted with an improper motive or is habitually delayed, this claim does not give rise to a finding of cognizable misconduct.

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 9th day of December, 2024.

A handwritten signature in black ink, reading "Harris L. Hartz". The signature is written in a cursive, flowing style with a large initial 'H' and a stylized 'L'.

Honorable Harris L. Hartz
Circuit Judge