

**JUDICIAL COUNCIL OF THE
TENTH CIRCUIT**

IN RE: COMPLAINT UNDER THE
JUDICIAL CONDUCT AND
DISABILITY ACT

No. 10-17-90008

Before **TYMKOVICH**, Chief Judge

ORDER

Complainant has filed a complaint of judicial misconduct against a former 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: <http://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).

Complainant filed a complaint against a former circuit judge in this circuit. Complainant alleged that the subject judge should have recused himself in a previous

matter. In a supplemental filing, complainant acknowledged that, as the subject judge was no longer a judge of the circuit, the Tenth Circuit no longer has authority over the misconduct complaint. Complainant's assertion is correct. *See* JCD Rule 4 (stating “[a] complaint under these Rules may concern the actions or capacity only of 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”). Accordingly, the complaint is dismissed pursuant to JCD Rule 11(c)(1)(G) (permitting dismissal when the chief judge concludes that the complaint “is otherwise not appropriate for consideration under the Act”).

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 4th day of August, 2017.

/s/ Timothy M. Tymkovich

Honorable Timothy M. Tymkovich
Chief Circuit Judge