

**JUDICIAL COUNCIL OF THE
TENTH CIRCUIT**

IN RE: COMPLAINT UNDER THE
JUDICIAL CONDUCT AND
DISABILITY ACT

Nos. 10-16-90014 & 10-16-90018

Before **TYMKOVICH**, Chief Judge

ORDER

Complainant has filed similar complaints of judicial misconduct against two magistrate judges in this circuit. The complaints involve the conduct of the magistrate judges who are assigned, or were previously assigned, to complainant's civil cases. 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: <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 judges shall not be disclosed in this order. *See* JCD Rule 11(g)(2).

Complainant alleges two of the magistrate judges assigned to his civil matters have engaged in judicial misconduct. Specifically, complainant alleges the subject judges improperly ruled in favor of opposing counsel, improperly denied complainant's motion for appointment of counsel, and improperly placed restrictions on complainant's ability to file with the court. 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 3 ("Any allegation that calls into question the correctness of an official action of a judge—without more—is merits-related").

Complainant also alleges both judges share a personal connection with opposing parties in complainant's cases. Although not entirely clear, complainant seems to contend that one of the subject judges was connected through an alma mater and the other subject judge shared a religious affiliation with one of the opposing parties. Insofar as complainant may be suggesting the judges were biased because of the alleged connections, these bias claims fail because they are completely unsupported. 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).

Accordingly, these complaints are 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 19th day of July, 2016.

/s/ Timothy M. Tymkovich

Honorable Timothy M. Tymkovich
Chief Circuit Judge