

**JUDICIAL COUNCIL OF THE
TENTH CIRCUIT**

IN RE: COMPLAINT UNDER THE
JUDICIAL CONDUCT AND
DISABILITY ACT

No. 10-16-90045

Before **KELLY**, Circuit Judge

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: <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 circuit judge alleging that the judge “lack[s] proper bonding and thus [has] no judicial and sovereign immunity to hear

[complainant's] cause" and committed fraud by taking a "faulty oath of office." It does not appear that the complainant has a case before the subject judge, but insofar as he may be suggesting that the judge does not have jurisdiction, that claim 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 3 (providing that "[a]ny allegation that calls into question the correctness of an official action of a judge—without more—is merits-related").

As to complainant's allegation that the subject judge took a "faulty oath of office," that allegation can be dismissed as frivolous. *See* Commentary to JCD Rule 11(c)(1)(C) (stating "when the allegations are . . . so lacking in indicia of reliability that no further inquiry is warranted, dismissal . . . is appropriate).

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 this order. *Id.*

So ordered this 16th day of November, 2016.

/s/ Paul J. Kelly, Jr.

Honorable Paul J. Kelly, Jr.
Circuit Judge