

**JUDICIAL COUNCIL OF THE
TENTH CIRCUIT**

IN RE: COMPLAINT UNDER THE
JUDICIAL CONDUCT AND
DISABILITY ACT

No. 10-20-90030

Before **TYMKOVICH**, Chief Judge

ORDER

Complainant has filed a complaint of judicial misconduct against a district 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.¹

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

¹ Complainant contends that his complaint should be transferred to another circuit. I have determined disqualification is not necessary. *See* Canon 3C(1); *see also* Committee on Codes of Conduct, Advisory Opinion No. 103 (June 2009) (advising that disqualification from judicial conduct and disability matters is governed by the same general principles as disqualification when a civil lawsuit is filed and that “[a] judge is not automatically disqualified from participating in other, unrelated cases involving the same litigant, whether they are filed before or after the complaint in which the judge is a defendant”).

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 alleges the subject judge, who was assigned to complainant's civil matter, "has helped perpetrators of hate crimes, obstruction of justice and electronic aggressions." Specifically, complainant asserts that "the court," presumably the subject judge, improperly relied on case law, misstated facts, and abused its discretion. 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 further contends the subject judge "has displayed a deep-seated-favoritism to corruption and a deep-seated-antagonism to victims of constitutional violations." While allegations of bias and corruption can state valid claims for misconduct even when they relate to a judge's ruling, *see* Commentary to JCD Rule 4, these 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).

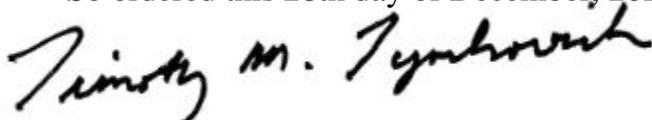
The remainder of complainant's allegations appear to be about the conduct of people who are not the subject judge. Complainant has indicated that he does not wish to name as subject judges any of the other judges mentioned in his complaint. Further, complainant's allegations against non-judges are not cognizable misconduct. *See* JCD Rule 1(b) (providing "[a] covered judge is defined under the Act and is limited to 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”).

This is complainant’s fourth complaint of judicial misconduct in this circuit. Each of complainant’s complaints have been dismissed. Complainant is cautioned that further complaints could be construed as “repetitive, harassing, or frivolous.” *See* JCD Rule 10.

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 28th day of December, 2020.

A handwritten signature in black ink that reads "Timothy M. Tymkovich". The signature is written in a cursive, flowing style.

Honorable Timothy M. Tymkovich
Chief Circuit Judge