

**JUDICIAL COUNCIL OF THE
TENTH CIRCUIT**

IN RE: COMPLAINT UNDER THE
JUDICIAL CONDUCT AND
DISABILITY ACT

Nos. 10-20-90038 through 10-20-90044

Before **HOLMES**, Chief Judge

MEMORANDUM & ORDER

Complainant has filed a complaint of judicial misconduct against six circuit judges and one 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.

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 judges shall not be disclosed in this order. *See* JCD Rule 11(g)(2).

Complainant, a pro se incarcerated litigant, filed a complaint against various judges in the circuit who ruled on his criminal and habeas matters. Although complainant indicates that his complaint is against several judges, he does not allege specific facts against all of the judges referenced in his complaint. This order will only address the specific facts alleged by complainant. *See* JCD Rule 6(b) (requiring a complaint to contain “the specific facts on which the claim of misconduct . . . is based”).

Further, as complainant stated in his complaint, the allegations against the subject district judge were reviewed and dismissed in 2010. Complainant does not provide any material information about the subject district judge that was not previously considered. Accordingly, those allegations are dismissed. *See* JCD 11(c)(2) (allowing dismissal of a complaint that repeats allegations of a previously dismissed complaint unless it contains material information not previously considered).

Complainant’s remaining allegations are not cognizable misconduct. Complainant alleges that the subject circuit judges should have “entertain[ed] [complainant’s] lack of [s]ubject [m]atter jurisdiction claims.” He asserts that because they did not, he experienced a miscarriage of justice. 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”).

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

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 judge's order. *Id.*

So ordered this 13th day of December, 2022.

A handwritten signature in black ink, appearing to read "Jerome A. Holmes". The signature is written in a cursive, flowing style.

Honorable Jerome A. Holmes
Chief Circuit Judge