

**JUDICIAL COUNCIL OF THE
TENTH CIRCUIT**

IN RE: COMPLAINT UNDER THE
JUDICIAL CONDUCT AND
DISABILITY ACT

No. 10-20-90049

**Before TYMKOVICH, Chief Circuit Judge, HOLMES, MATHESON, EID,
CARSON, Circuit Judges, ARGUELLO, GONZALES, SHELBY, and CRABTREE,
District Judges**

ORDER

An individual filed a complaint of disability against Chief District Judge John E. Dowdell of the United States District Court for the Northern District of Oklahoma pursuant to the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351–364.¹ Chief Judge Timothy M. Tymkovich appointed a Special Committee, pursuant to § 353 of the Act, to investigate the allegations against Judge Dowdell, and the Special Committee has unanimously submitted a report of its findings and recommendations to the Judicial Council and to Judge Dowdell.² Judge Dowdell has responded to the Committee’s report.

¹ “Once a special committee has been appointed, and a proceeding is concluded by the full judicial council on the basis of a remedial order of the council, Rule 24(a)(4) provides for disclosure of the name of the subject judge.” Rules for Judicial-Conduct and Judicial-Disability Proceedings Rule 24(a)(4) cmt. (Jud. Conf. of the U.S. 2019).

² The members of the Special Committee are Circuit Judges Timothy M. Tymkovich and Michael R. Murphy (presiding), and District Judge Julie A. Robinson.

After consideration of the Special Committee’s report and Judge Dowdell’s response, the Judicial Council unanimously adopts the Special Committee’s conclusions that: 1) Judge Dowdell suffers from a medical condition that prevents him from continuing to work effectively as an active district judge, and 2) Judge Dowdell’s inability to maintain an active judge’s workload justifies his retirement into senior status pursuant to 28 U.S.C. § 354(a)(2)(B)(ii) and 28 U.S.C. § 371.

In this matter, an individual filed a complaint of disability pursuant to 28 U.S.C. §§ 351–364, alleging that Judge Dowdell has a medical condition that may render him unable to effectively discharge the duties of his office. The complainant had an opportunity to observe Judge Dowdell during court proceedings.

The Judicial Conduct and Disability Act and the Rules for Judicial-Conduct and Judicial-Disability Proceedings (JCD Rules) provide procedures for handling disability complaints. The JCD Rules define disability as “a temporary or permanent impairment, physical or mental, rendering a judge unable to discharge the duties of the particular judicial office.” JCD Rule 4(c). Chief Circuit Judge Tymkovich appointed a Special Committee to determine whether Judge Dowdell had an impairment that would render him unable to discharge the duties of his office and to make a recommendation to this Council as to remedial actions.

The Special Committee conducted interviews with judicial colleagues, court staff and others, reviewed medical records, and consulted with the Tenth Circuit’s Certified Medical Professional, Dr. Michael Gendel. After the complaint was filed, Judge Dowdell voluntarily participated in several clinical examinations. Dr. Gendel reviewed Judge

Dowdell's relevant medical records, spoke with Judge Dowdell's examining physicians, and wrote a report conveying his medical opinion to the Special Committee.

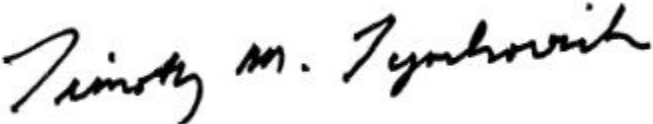
The Special Committee determined that Judge Dowdell's retirement would be in the best interest of the Judiciary. Based on Dr. Gendel's report, Judge Dowdell's medical records, and its interviews, the Special Committee concluded that Judge Dowdell is unable to maintain the full workload of an active judge. The Special Committee also determined that Judge Dowdell's medical condition justified his retirement into senior status pursuant to 28 U.S.C. § 354(a)(2)(B)(ii). The Committee recommended that the Council waive the years of service requirement of § 371 as provided by § 354(a)(2)(B)(ii).

We accept the Special Committee's findings and agree with its recommendations. Accordingly, we have requested that Judge Dowdell voluntarily retire into senior status under § 371(b), and he has agreed. As a senior judge, Judge Dowdell may perform judicial duties only "when designated" by the chief circuit judge. 28 U.S.C. § 294(b). Pursuant to § 294(c), the chief circuit judge will designate the judicial duties he believes Judge Dowdell is able to perform based on further evaluation.

The Circuit Executive is directed to transmit this Order to the complainant, Judge Dowdell, and the Judicial Conference Committee on Judicial Conduct and Disability. *See* Rule 20(f). Judge Dowdell and the complainant have agreed to waive their right to seek review of this Order from the Committee on Judicial Conduct and Disability under Rules 21 and 22. Therefore, this matter is concluded. This Order shall be made publicly

available. *See* Rule 24. The Special Committee's report and other materials related to this matter shall remain confidential pursuant to 28 U.S.C. § 360.

So **ORDERED**, June 18, 2021, and
Entered on behalf of the Judicial Council
Of the Tenth Circuit

By: 

Honorable Timothy M. Tymkovich
Chief Circuit Judge