

**JUDICIAL COUNCIL OF THE
TENTH CIRCUIT**

IN RE: COMPLAINT UNDER THE
JUDICIAL CONDUCT AND
DISABILITY ACT

No. 10-22-90005

Before **HOLMES**, Chief Judge

MEMORANDUM & ORDER

Complainant has filed a complaint of judicial misconduct against a former magistrate 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 judge shall not be disclosed in this order. *See* JCD Rule 11(g)(2).

Complainant alleges that the magistrate judge violated his rights by enforcing the mask mandate then in place for federal courts within the Tenth Circuit. Complainant alleges he was required to either wear a mask or face arrest. The record in this matter reflects that Complainant did appear telephonically for the hearing at issue.

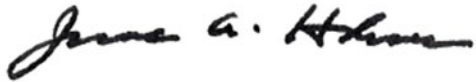
Complainant's allegations appear to directly and solely relate to procedural rulings by the magistrate judge. As such, these claims ordinarily would not be cognizable as misconduct because they are "directly related to the merits of a decision or procedural ruling." JCD Rule 11(c)(1)(B); *see also* Commentary 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" and noting that the phrase "official decision" is "not limited to rulings issued in deciding Article III cases").

However, I need not definitively opine on that matter. Since the subject judge is now retired, the complaint is concluded for intervening events. *See* JCD Rule 11(e) (allowing a chief judge to "conclude a complaint . . . in whole or in part upon determining that intervening events render some or all of the allegations moot or make remedial action impossible as to the subject judge").

Accordingly, this complaint is dismissed pursuant to JCD Rule 11(e). The Circuit Executive is directed to transmit this order to complainant and a copy to 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 27th day of December, 2024.

A handwritten signature in black ink, reading "Jerome A. Holmes". The signature is written in a cursive style with a large initial "J" and "H".

Honorable Jerome A. Holmes
Chief Circuit Judge