

**JUDICIAL COUNCIL OF THE
TENTH CIRCUIT**

IN RE: COMPLAINT UNDER THE
JUDICIAL CONDUCT AND
DISABILITY ACT

No. 10-23-90001

Before **HOLMES**, Chief Judge

MEMORANDUM & 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.


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/cc/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, filing pro se, alleges the subject judge committed misconduct in entering a dismissal of her underlying case with prejudice, when the magistrate judge sitting by consent issued a report and recommendation recommending dismissal without prejudice. Complainant alleges the subject judge offered no explanation for her decision to change from without to with prejudice. A review of the docket indicates that on appeal, the United States Court of Appeals for the Tenth Circuit affirmed the district court's decision in the matter, except for the dismissal with prejudice. The Court of Appeals ordered the matter be remanded with instructions that the case be dismissed without prejudice. The clerk of court subsequently entered an amended order reflecting that change. 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"). It is also noted that Complainant received the relief she sought through the appropriate forum.

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 the chief judge's order. *Id.*

So ordered this 28th day of April, 2025.

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