

**JUDICIAL COUNCIL OF THE
TENTH CIRCUIT**

IN RE: COMPLAINT UNDER THE
JUDICIAL CONDUCT AND
DISABILITY ACT

No. 10-23-90011

Before **HOLMES**, Chief Judge

MEMORANDUM & ORDER

Complainant has filed a complaint of judicial misconduct against a 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/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, appearing pro se in this Complaint and in the underlying matter, alleges the magistrate judge engaged in ex parte communication with individuals in the office of the Oklahoma Attorney General, with whom he believes the magistrate judge is close personal friends. As such he alleges the magistrate judge was biased against him. Complainant further alleges the magistrate judge should have recused from presiding over his case due to the judge's involvement with a nonprofit entity whose mission, he alleges, conflicts with the facts presented in his case. Regarding the allegation the magistrate judge improperly failed to recuse, this claim is not cognizable as misconduct because it is "directly related to the merits of a decision or procedural ruling." JCD Rule 11(c)(1)(B)— which JCD Rule 4(b)(1) notes includes rulings regarding recusal. *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").

While allegations of conspiracy or bias can state a valid claim for misconduct even when the alleged conspiracy or bias relates to a judge's ruling, *see* Commentary to JCD Rule 4, Complainant's claim fails because it is completely unsupported. Complainant has offered no evidence of the magistrate judge's involvement in a conspiracy with the office of the Oklahoma Attorney General (or anyone else for that matter) or of any bias against him; instead, Complainant rests his claim on speculative inferences arising from his disagreement with the magistrate judge's rulings. 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).

Complainant also made identical allegations to those included in this complaint to the District Court while his matter was being adjudicated. Both the magistrate judge and the district court judge considered the allegations and provided reasoned decisions explaining why the allegations were unpersuasive or lacked evidentiary support. Thus, Complainant has had multiple opportunities to have his concerns reviewed.

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 3rd day of June, 2025.

A handwritten signature in black ink, appearing to read "Jerome A. Holmes". The signature is fluid and cursive, with the first name "Jerome" being more prominent.

Honorable Jerome A. Holmes
Chief Circuit Judge