

**JUDICIAL COUNCIL OF THE
TENTH CIRCUIT**

IN RE: COMPLAINT UNDER THE
JUDICIAL CONDUCT AND
DISABILITY ACT

No. 10-23-90012

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).

As an initial matter, the subject magistrate judge recently retired and, thus, the claims against him are concluded pursuant to JCD Rule 11(e) (“The chief judge may conclude a complaint proceeding 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.”). Regardless, complainant’s claims do not constitute misconduct.

Complainant alleges the magistrate judge, acting as a third-party mediator in his underlying civil matter, made statements that confused him and amounted to fraud, thereby undermining the settlement in his case. When given an opportunity to raise this issue on the record, Complainant did not do so. Only when he was attempting to oppose the enforcement of the settlement agreement did Complainant raise this issue.

Complainant offers no evidence other than his unsupported recitation of the magistrate judge’s statements to support his allegations. Complainant appears to be alleging the magistrate judge was motivated, in part, by bias, although he does not provide evidence of bias on the part of the magistrate judge, nor does he explain the reason he believes such bias existed. Further, it is noted that within days of filing this misconduct complaint, Complainant filed with the District Court a document indicating a respect for the process and an acceptance of the underlying settlement agreement.

Because Complainant’s recounting of the magistrate judge’s statements is incapable of being proven, this complaint—in essence—rests on a disagreement with the settlement agreement and the enforcement thereof. 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); *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, this claim fails because it is completely unsupported. 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).

Accordingly, this complaint is dismissed pursuant to JCD Rule 11(e). The Circuit Executive is directed to transmit this order to complainant and copies 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 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