

**JUDICIAL COUNCIL OF THE
TENTH CIRCUIT**

IN RE: COMPLAINT UNDER THE
JUDICIAL CONDUCT AND
DISABILITY ACT

Nos. 10-23-90024 through 10-23-90026

Before **HOLMES**, Chief Judge

MEMORANDUM & ORDER

Complainant has filed a complaint of judicial misconduct against three appellate judges 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 complainants and subject judges shall not be disclosed in this order. *See* JCD Rule 11(g)(2).

Complainant alleges the appellate judges erred in denying his appeal, which consists of three separately filed appeals consolidated into one. He argues the denial was erroneous, interfered with the administration of justice, and resulted from their collusion with prison officials to shield officers from accountability, which places him at risk of harm while incarcerated. He further alleges the appellate judges improperly construed his request for rehearing and en banc review as a motion for reconsideration. A review of the record indicates that Complainant, a serial filer deemed subject to the “three strikes” provision of the Prison Litigation Reform Act (PLRA), was ordered by the judges to pay the full filing fee under the provisions of the Act and was further warned his appeal would be dismissed if he did not do so. Complainant did not pay the fee and his appeal was dismissed. Despite Complainant’s attempts to argue this is a civil rights violation and therefore is not a simple “merits related” issue, these claims are nevertheless 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”).

While allegations of conspiracy can state a valid claim for misconduct even when the alleged conspiracy relates to a judge’s ruling, *see* Commentary to JCD Rule 4, this conspiracy claim fails because it is completely unsupported. Complainant provides no evidence to demonstrate the collusion he alleges, other than to state it is so. 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(c). The Circuit Executive is directed to transmit this order to complainant and copies to the subject judges 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 21st day of July, 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