

**JUDICIAL COUNCIL OF THE
TENTH CIRCUIT**

IN RE: COMPLAINT UNDER THE
JUDICIAL CONDUCT AND
DISABILITY ACT

No. 10-25-90049

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, counsel in an underlying civil matter, alleges the subject judge had a personal relationship with a lawyer involved with the case, was biased against Complainant's client as a result, and should have recused from the case.

A limited inquiry was conducted to determine the veracity of the allegations and, more specifically, whether they presented any reasonably disputed factual or other issues. *See* JCD Rule 11(b). Specifically, the underlying case record was reviewed, and the subject judge was asked to respond to the allegations. In so doing, the judge denied any personal relationship with the lawyer, and indicated that their relationship could be described as—at most—professionally collegial. A review of the record indicates that the lawyer has also indicated there was no personal relationship between the lawyer and the subject judge that would establish cause for the subject judge to recuse. In effect, the lawyer validated the subject judge's assertion that their relationship was nothing more than professional. Thus, because both parties to the alleged personal relationship have denied its existence, and no credible or non-speculative evidence was submitted to the contrary, there appear to be no reasonably disputed factual or other issues presented by this complaint. *See* JCD Rule 11, cmt. (noting that “a matter is not ‘reasonably’ in dispute if a limited inquiry shows that the allegations . . . lack any reliable factual foundation”).

The JCD Rules provide that “[c]ognizable misconduct does not include an allegation that calls into question the correctness of a judge's ruling, including a failure to recuse.” JCD Rule 4(b)(1). But “[t]he very different allegation that the judge failed to recuse for illicit reasons – i.e., not that the judge erred in not recusing, but that the judge knew he should recuse but deliberately failed to do so for illicit purposes – is not merits-

related.” Implementation of the Judicial Conduct and Disability Act of 1980: A Report to the Chief Justice, 239 F.R.D. 116, 222 (2006). Any allegation that a judge acted with an improper motive, or that the judge was biased, must be supported by sufficient evidence to raise an inference that misconduct has occurred. JCD Rule 11(c)(1)(D). Because the Complainant submitted no credible or non-speculative evidence to support the allegation of an improper personal relationship between the subject judge and the lawyer, because both the judge and the lawyer have denied any such relationship existed, and because the underlying record calls the veracity of Complainant’s allegations into question, the allegation that the subject judge acted with an improper motive fails because it is completely unsupported.

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 11th day of September, 2025.

A handwritten signature in black ink, appearing to read "Jerome A. Holmes".

Honorable Jerome A. Holmes
Chief Circuit Judge