JUDICIAL COUNCIL OF THE TENTH CIRCUIT

IN RE: COMPLAINT UNDER THE JUDICIAL CONDUCT AND DISABILITY ACT	Nos. 10-22-90009 & 10-22-90010

Before **HOLMES**, Chief Judge

MEMORANDUM & ORDER

Complainant filed two separate complaints of judicial misconduct against two district judges in this circuit. The complaints have been consolidated for decision because they arise out of the same underlying case and factual circumstances. My consideration of these complaints 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 judges shall not be disclosed in this order. *See* JCD Rule 11(g)(2).

Complainant files these complaints pro se, and it is noted he and his son have both filed numerous other pro se misconduct complaints against the same judges regarding the same underlying matters. While the present complaints stand-alone from the others in that they arise from judicial actions post-dating the last of Complainant's prior complaints, they nevertheless deal substantively with the same types of issues Complainant has raised previously, which have been reviewed and dismissed. For the reasons discussed below, we find these complaints, too, are not cognizable as misconduct.

Both complaints filed by Complainant are lengthy, as is the underlying docket. A limited inquiry was conducted regarding Complainant's allegations which included a review of these complaints, his prior complaints, and the docket in the primary case as well as the related case(s). While Complainant's allegations were thoroughly reviewed, they will be summarized only briefly here because they are largely similar in context to the prior complaints he has filed.

Complainant alleges both judges denied his constitutional rights through rulings in the underlying civil and criminal matters, which were pending for approximately fourteen years. Complainant alleges abuse of authority against one judge relating to rulings in the underlying matter, leading to a violation of his rights. He also alleges he was coerced into either withdrawing an appeal or facing continued incarceration if he did not do so; he deduces, again based on conjecture but without proof, that the third party he alleges conveyed the pressure to withdraw did so at the behest of the judge. He alleges retaliation in rulings made by the second judge resulting from his filing prior misconduct

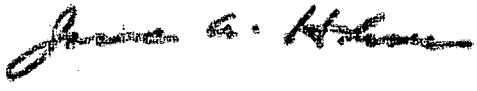
complaints. As Complainant is likely aware, while retaliation and coercion may be violations of the judicial misconduct rules, proof of the retaliatory or coercive conduct must be provided for the complaint to be cognizable. Here, apart from his recounting of a conversation with a third party, it appears Complainant's only basis for his claims are merits-based rulings by the judges with which he disagreed, and his conjecture for their motives in doing so. As Complainant is aware from his prior filings, 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").

Additionally, while allegations of retaliation may state a valid claim for misconduct even when it 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, these complaints are 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.*

Finally, as Complainant and his son have now filed numerous complaints against both judges relating to the same underlying matters, none of which have been found to be meritorious, Complainant is warned that any future complaints, by him or other parties related to this matter, with similar or identical allegations may result in a restriction from filing further complaints pursuant to JCD Rule 10 (providing "[a] complainant who has filed repetitive, harassing, or frivolous complaints, or has otherwise abused the complaint procedure, may be restricted from filing further complaints.")

So ordered this 26th day of February, 2025.



Honorable Jerome A. Holmes
Chief Circuit Judge

JUDICIAL COUNCIL OF THE TENTH CIRCUIT

IN RE: COMPLAINT UNDER THE JUDICIAL CONDUCT AND DISABILITY ACT	Nos. 10-22-90009 & 10-22-90010

ORDER

Pursuant to the Rules for Judicial-Conduct and Judicial-Disability Proceedings, and 28 U.S.C. § 351 et seq., the Judicial Council has reviewed the complainant's Petition for Review and hereby affirms the February 26, 2025 order of Chief Circuit Judge Jerome A. Holmes dismissing the captioned complaint of judicial misconduct. The Petition for Review is denied.

The Circuit Executive is hereby directed to sign, enter and distribute this order to all parties as Secretary to the Judicial Council.

The dismissal of the complaint is hereby AFFIRMED.

So ORDERED, August 18, 2025, and
Entered on behalf of the Judicial Council
Of the Tenth Circuit

By: Leslee Fathallah

Leslee Fathallah
Circuit Executive and Secretary to the
Judicial Council of the Tenth Circuit

Additional material from this filing is available in the Clerk's Office.