

JUN 13 2011

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

Nos. 08-90066, 08-90067,  
08-90068, 08-90069, 08-90070,  
08-90071, 08-90072, 08-90073,  
08-90074, 08-90075, 08-90076,  
08-90077, 08-90078, 08-90079,  
08-90080, 08-90081, 08-90179,  
08-90187, 08-90188, 08-90243,  
08-90244, 09-90046, 09-90047  
and 09-90050

**ORDER**

Before: **KOZINSKI**, Chief Judge, **HUG**, **THOMAS**, **GOULD**, and  
**RAWLINSON**, Circuit Judges, **A. COLLINS** and **WARE**, Chief  
District Judges, and **McNAMEE** and **WHALEY**, District Judges\*

Pursuant to Article V of the Rules for Judicial-Conduct and

Judicial-Disability Proceedings under 28 U.S.C. § 352(c), complainant has filed a  
petition for review of the order of the Chief Judge, entered on May 27, 2009,  
dismissing his six misconduct complaints and several supplements against  
fourteen circuit judges, five district judges, and three magistrate judges. The  
petition for review was timely filed, but due to an administrative error, the

\* Hon. Raymond C. Fisher and Hon. Roger L. Hunt did not participate in the  
consideration of this matter.

Judicial Council just became aware that this petition for review was pending.

We have carefully reviewed the record and the authorities cited by the Chief Judge in his order of dismissal. We conclude there is no basis for overturning the order of dismissal. In his petition for review, complainant contends that the Chief Judge should not have considered his misconduct complaint because he was the subject of one of the many complaints. The Chief Judge's decision to resolve complainant's many complaints, including the one against him, is affirmed. Judicial-Conduct Rule 25(b) does not disqualify a chief judge from acting when a complainant is abusing the complaint process, as in this case where complainant filed insubstantial complaints to harass numerous judges. See In re Complaint of Judicial Misconduct, 563 F.3d 853, 854 (9th Cir. Jud. Council 2009); see also Commentary on Judicial-Conduct Rule 25.

Complainant continues to argue that the court has misplaced or destroyed an envelope of exhibits that were submitted with his misconduct complaint. The Chief Judge's order notes that the court did not possess these documents, and had never received or rejected them. Complainant attaches to his petition for review, for the first time, a letter from a court clerk stating that the copy complainant requested of his complaint and exhibits was enclosed, and he also attaches a copy of the envelope for these documents. Complainant does not, however, attach any of the exhibits that the court seemingly returned to him. It is

still unclear to which documents complainant is referring and what may have happened to them. Regardless, because the complaint contained no sufficient allegations of misconduct or description of how the alleged exhibits supported the allegations, the Chief Judge and staff were not required to examine those documents. See In re Complaint of Judicial Misconduct, 630 F.3d 968, 969-970 (9th Cir. Jud. Council 2010).

For the reasons stated by the Chief Judge and based upon the controlling authority cited in support thereof, we affirm.

Further, the May 27, 2009 order required complainant to show cause why he should not be sanctioned for his abuse of the misconduct complaint procedure. Complainant had thirty days in which to file a response but instead filed a petition for review complaining that the chief judge and the court clerks were corrupt. He also disagrees that an order to show cause is warranted when he has not previously filed any complaints.

Although complainant has not previously filed any misconduct complaints, his recent barrage of lengthy and frivolous complaints, all of which were dismissed because complainant's allegations were conclusory and/or related to the merits of the subject judges' rulings, wasted considerable judicial resources, and thus warrant further restriction. See In re Complaint of Judicial Misconduct, 601 F.3d 1005, 1006 (9th Cir. Jud. Council 2010). Pursuant to Rule 10(a) of the

Rules for Judicial-Conduct and Judicial-Disability Proceedings, we conclude that complainant's right to file further misconduct complaints should be restricted. We direct the Clerk to enter the following pre-filing review order:

Pre-Filing Review Order

(1) This pre-filing review order shall apply to all misconduct complaints or petitions for review filed by complainant. This order shall not apply to appeals or petitions in which complainant has counsel or where the district court has expressly certified in its order that the appeal or petition is not frivolous.

(2) Any future misconduct complaint or petition for review filed by complainant shall comply with the requirements of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, and shall contain the sentence "THIS COMPLAINT/PETITION IS FILED SUBJECT TO PRE-FILING REVIEW ORDER Nos. 08-90066, 08-90067, 08-90068, 08-90069, 08-90070, 08-90071, 08-90072, 08-90073, 08-90074, 08-90075, 08-90076, 08-90077, 08-90078, 08-90079, 08-90080, 08-90081, 08-90179, 08-90187, 08-90188, 08-90243, 08-90244, 09-90046, 09-90047 and 09-90050" in capital letters in the caption of the complaint or petition.

(3) If complainant submits a misconduct complaint or petition for review in compliance with this order, the Clerk shall lodge the complaint or petition and accompanying documents. The Clerk shall not file the complaint or

petition until complainant's submission is reviewed and a determination is made as to whether it merits further review and should be filed.

(4) This pre-filing review order shall remain in effect until further order of the Judicial Council. Complainant may, no earlier than June 1, 2012, petition the Judicial Council to lift this pre-filing review order, setting forth the reasons why the order should be lifted.

Complainant's failure to comply with this order shall result in any new misconduct complaints or petitions for review being dismissed or not being filed and other sanctions being levied as the Judicial Council may deem appropriate.