

APR 28 2011

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 10-90016
ORDER

Before: **KOZINSKI**, Chief Judge, **HUG**, **THOMAS**, **FISHER**, **GOULD**,
and **RAWLINSON**, Circuit Judges, **A. COLLINS**, **HUNT** 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 February 2, 2011, dismissing the complaint against a magistrate judge of this circuit.

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. We further note that the subject judge did not comment on the merits of any particular pending matter, and instead his comments were made for the purposes of legal education. See Code of Conduct for United States Judges Canon 3(A)(6). A judge should be careful to refrain from publicly reflecting on matters that may come before him, but none of the subject judges's comments amounted to judicial misconduct in this case.

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