

DEC 16 2011

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

JUDICIAL COUNCIL
OF THE NINTH CIRCUIT

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 11-90053, 11-90054,
11-90055, 11-90056, 11-90057,
11-90058, 11-90059 and 11-90060

ORDER

SCHROEDER, Circuit Judge¹:

A pro se litigant filed a misconduct complaint naming seven circuit judges and one district judge, but failed to concisely detail any alleged misconduct by six of the circuit judges or by the district judge. The dockets in the appellate cases complainant lists show that the six of the named circuit judges served on panels that summarily affirmed lower court rulings. Those rulings resulted in complainant filing four previous judicial misconduct complaints against four different district judges that were dismissed by the Chief Judge. See In re Complaint of Judicial Misconduct, 632 F.3d 1287 (9th Cir. 2011).

The current complaint never references the newly named district judge, and never provides any allegation of misconduct against six of the circuit judges. Instead, complainant only lists appellate case numbers and states that the appellate

¹ This complaint was assigned to Circuit Judge Mary M. Schroeder pursuant to 28 U.S.C. § 351(c).

court covers up “a staggering amount of judicial malfeasance in the lower courts.” He states that evidence for his claims can be found in a petition for review filed in another misconduct matter, and “in the record.” In the order dismissing the previous misconduct complaints, the Chief Judge advised that a complaint must contain a brief statement of facts that concisely details the alleged misconduct, and that “a complainant may not circumvent Rule 6(b)'s requirement of a brief statement of facts by referencing other materials.” Id. at 1287-1288. Because the misconduct complaint fails to specify any allegations against the district judge or six of the circuit judges, his complaints against those judges are dismissed for failing to allege judicial misconduct. See 28 U.S.C. § 352(b)(1)(A)(i), (iii). To the extent that complainant was attempting to allege that the circuit judges improperly dismissed his appeals, those claims are dismissed as merits-related. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B).

Complainant’s remaining allegations that one circuit judge improperly handled his previous misconduct complaints is also dismissed. Challenges to the correctness of an order by the chief judge, or a judge acting in that capacity, dismissing a misconduct complaint are properly dismissed as merits-related. See Judicial-Conduct Rule 3(h)(3)(A); Commentary on Judicial-Conduct Rule 3.

DISMISSED.