

DEC 21 2012

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 11-90178, 11-90179,
11-90183 and 11-90184
ORDER

Before: **THOMAS, FISHER, TALLMAN** and **CLIFTON**, Circuit Judges,
BEISTLINE, KING and **WILKEN**, Chief District Judges, and
ISHII and **McNAMEE**, District Judges¹

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 Circuit Judge Pregerson² entered on August 16, 2012, dismissing the complaints against three district judges and a circuit judge of this circuit.

We have carefully reviewed the record and the authorities cited by Judge Pregerson in his order of dismissal. We conclude there is no basis for overturning the order of dismissal.

¹ Hon. Alex Kozinski and Hon. J. Clifford Wallace did not participate in the consideration of this matter.

² The complaints were assigned to Circuit Judge Harry Pregerson pursuant to 28 U.S.C. § 351(c).

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

Further, the August 16, 2012, order required complainant to show cause why he should not be sanctioned for his abuse of the misconduct complaint procedure. Complainant did not adequately respond to the Order to Show Cause. 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.

(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. 11-90178, 11-90179, 11-90183 and 11-90184" 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 December 1, 2014, 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.