

FOR PUBLICATION
JUDICIAL COUNCIL
OF THE NINTH CIRCUIT

IN RE COMPLAINT
OF JUDICIAL MISCONDUCT

No. 07-89141
ORDER

Filed April 13, 2010

Before: Alex Kozinski, Chief Judge, Procter Hug, Jr.,
Sidney R. Thomas, M. Margaret McKeown,
Ronald M. Gould and Johnnie B. Rawlinson,
Circuit Judges, Audrey B. Collins, Irma E. Gonzalez
and Roger L. Hunt, Chief District Judges, and
Terry J. Hatter, Jr. and Robert H. Whaley, District Judges.

ORDER

Pursuant to Article V of the Rules for Judicial-Conduct and Judicial-Disability Proceedings under 28 U.S.C. § 352(c), complainant filed a petition for review of the order of Chief Judge Kozinski, entered on August 27, 2009, dismissing his misconduct complaint and four supplements against a district judge.

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

Further, the August 27, 2009, order required complainant to show cause why he should not be sanctioned for his abuse of the misconduct complaint procedure. Complainant filed a

petition for review alleging that the chief judge improperly handled his complaint, and reiterating his disputes with the subject district judge's rulings in his underlying case.

Complainant's lengthy and frivolous complaint and supplements, as well as two additional misconduct complaints, Nos. 09-90209 and 09-90219, filed after the order to show cause and raising the same baseless allegations, have wasted considerable judicial resources. Sanctions are warranted. We impose a \$1,000.00 fine for abuse of the misconduct process. Payment shall be made by check to the Clerk of the Court of Appeals for the Ninth Circuit, P.O. Box 193939, San Francisco, California, 94119-3939, within 21 days of the filing of this Order. Further, pursuant to Rule 10(a) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, we conclude that complainant's right to file 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 No. 07-89141" 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 April 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.