

**JUDICIAL COUNCIL OF THE
TENTH CIRCUIT**

IN RE: COMPLAINT UNDER THE
JUDICIAL CONDUCT AND
DISABILITY ACT

Nos. 10-13-90052 & 10-13-0053

Before **BRISCOE**, Chief Judge.

ORDER

Complainant has filed a complaint of judicial misconduct against a district judge and a magistrate judge in this circuit. My consideration of this complaint is governed by 1) the misconduct rules issued by the Judicial Conference of the United States, entitled *Rules for Judicial-Conduct and Judicial-Disability Proceedings* (the “Misconduct Rules”); 2) the federal statute dealing with judicial misconduct, 28 U.S.C. § 351 *et seq.*; and 3) the “Breyer Report,” a study by the Judicial Conduct and Disability Act Study Committee, headed by Supreme Court Justice Stephen Breyer, entitled *Implementation of the Judicial Conduct and Disability Act of 1980*. The Breyer Report may be found at: <http://www.supremecourt.gov/publicinfo/breyercommitteereport.pdf>. To the extent that there are any relevant prior decisions of the full Judicial Council of this circuit which are consistent with those authorities, they may also govern my consideration of this complaint.

The Misconduct Rules are available to complainants on the Tenth Circuit's web page at: <http://www.ca10.uscourts.gov/misconduct.php>. Paper copies are also furnished by the Circuit Executive's Office upon request. In accord with those rules, the names of the complainant and subject judges shall not be disclosed in this order. *See* Misconduct Rule 11(g)(2).

Complainant alludes to a "history of escalating retaliation," but sets out no allegations against the subject judge in the complaint. Instead, complainant states that "a detailed statement of misconduct is not prudent," and provides case numbers, apparently inviting me to read the entire record in the underlying matter and related appeal to determine whether misconduct has occurred.

The Misconduct Rules require complainants to provide "a concise statement that details the specific facts on which the claim of misconduct . . . is based." Misconduct Rule 6(b). Such statement should include information about what happened, when and where the relevant events occurred, and other identifying information. *Id.* Further, our local rules provide that complaints should not exceed more than five pages in length. Tenth Circuit Misconduct Rule 6.1. I decline complainant's invitation to read the entire record in an underlying matter and appeal. Although complainant's present complaint is deficient, he is not precluded from filing another complaint specifying the basis for any misconduct claims against the subject judges.

Accordingly, this complaint is dismissed pursuant to Misconduct Rule 11(c). The Circuit Executive is directed to transmit this order to complainant and copies to the subject judges and the Judicial Conference Committee on Judicial Conduct and Disability. *See* Misconduct Rule 11(g)(2). To seek review of this order, complainant must file a petition for review by the Judicial Council. The requirements for filing a petition for review are set out in Misconduct Rule 18(b). The petition must be filed with the Office of the Circuit Executive within 35 days of the date of the letter transmitting this order. *Id.*

So ordered this 5th day of December, 2013.

/s/ Mary Beck Briscoe

Honorable Mary Beck Briscoe
Chief Circuit Judge