

**JUDICIAL COUNCIL OF THE
TENTH CIRCUIT**

IN RE: CHARGE OF JUDICIAL
MISCONDUCT

No. 2008-10-372-06

Before **HENRY**, Chief Judge.

ORDER OF DISMISSAL

Complainant formerly filed a complaint of judicial misconduct against a district judge in this circuit. On March 10, 2008, I dismissed one part of the complaint, and took the remainder under advisement. My consideration of the remaining part of this complaint is governed by 1) the misconduct rules issued by the Judicial Council of the Tenth Circuit, entitled *Rules Governing Complaints of Judicial Misconduct and Disability*; 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.supremecourtus.gov/publicinfo/breyercommitteereport.pdf>. To the extent that any relevant prior decisions of the full Judicial Council of this circuit consistent with those authorities exist, they may also govern my consideration of this complaint.

Complainant has received or has access to a copy of this circuit's misconduct rules. In accord with those rules, the names of the complainant and subject judge shall not be disclosed in this order. *See* Misconduct Rule 4(f)(1).

In the portion of the complaint still pending, Complainant contended that specific conduct by the judge, which was reported by news media in the spring of this year, "brought disrepute to the judiciary." On October 29, 2008, the judge resigned. Because these rules apply only to federal judges, *see* Misconduct Rule 4, and because the resignation means that the subject judge is no longer a federal judge, the balance of this complaint is now moot. The complaint is dismissed pursuant to Misconduct Rule 11(e).

So ordered this 30th day of October, 2008.

/s/ Robert H. Henry

Honorable Robert H. Henry
Chief Circuit Judge