

OCT 01 2008

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

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

No. 08-89010

**ORDER**

**KOZINSKI**, Chief Judge:

A complaint of misconduct has been filed against a magistrate judge. Complainant, a pro se prisoner, had filed a petition for a writ of habeas corpus. The judge issued a Report and Recommendation recommending that the petition be denied. A district judge adopted the Report and Recommendation and denied the petition.

Complainant alleges that the judge made “procedural errors” and reached erroneous conclusions in the Report and Recommendation. Complainant also alleges that a certificate of appealability was incorrectly denied in an earlier habeas case. These charges relate directly to the merits of the decisions in the underlying cases, and therefore must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Misconduct Rule 4(c)(1). A complaint of judicial misconduct is not a proper vehicle for challenging the merits of a judge’s rulings. See In re

Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

**DISMISSED.**