JUDICIAL COUNCIL

OF THE NINTH CIRCUIT

FILED

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

IN RE COMPLAINT OF JUDICIAL MISCONDUCT	No. 07-89140 **ORDER**

KOZINSKI, Chief Judge:

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

Complainant alleges that the magistrate judge deliberately misstated and invented facts in the Report and Recommendation, and that the district judge knowingly adopted these falsities. According to complainant, the judges obstructed justice in order to protect the state officials involved in his prosecution. But complainant hasn't included any objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) supporting these allegations. The documents that complainant attaches don't reveal any improper motive or intentional wrongdoing. Because there isn't sufficient evidence to raise

an inference that misconduct occurred, these charges must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Misconduct Rule 4(c)(3).

To the extent that complainant otherwise alleges that the judges' factual findings and legal conclusions were erroneous, the charge is directly related to the merits of the rulings in the underlying case and must therefore 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.