

OCT 15 2010

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALSJUDICIAL COUNCIL
OF THE NINTH CIRCUIT**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 09-90167

ORDER**KOZINSKI**, Chief Judge:

Complainant, a pro se litigant, alleges that a district judge's adoption of a magistrate judge's report and recommendation was improper because the magistrate judge has "an active license to practice law." This charge relates directly to the merits of the judge's ruling and must be dismissed. 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B). A misconduct complaint is not a proper vehicle to challenge a judge's ruling on the merits. See In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

To the extent complainant alleges that the magistrate judge's maintenance of an active bar registration is somehow improper, this charge must also be dismissed. Although full-time magistrate judges may not engage in the practice of law, 28 U.S.C. § 632, keeping a bar registration active isn't prohibited, and complainant hasn't identified any instance where the magistrate judge actually practiced as a lawyer. See In re Reynoso, 477 F.3d 1117, 1125 (9th Cir. 2007).

DISMISSED.