

FILED

JAN 06 2009

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 08-90016 and 08-90036

ORDER

KOZINSKI, Chief Judge:

Two identical misconduct complaints have been filed against a district judge. Complainant, a pro se prisoner, filed a habeas petition in district court. The subject judge was assigned to the matter.

Complainant alleges that the judge's order dismissing his petition contains inaccurate factual statements and incorrect legal conclusions. Both of these charges relate directly to the merits of the judge's ruling and must therefore be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B). A misconduct complaint 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.