

JUN 02 2011

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

No. 11-90009

**ORDER****KOZINSKI**, Chief Judge:

A pro se prisoner alleges that a magistrate judge didn't give him an opportunity to object to a report and recommendation before the district judge dismissed his habeas case. But no report and recommendation was filed in that case, which, in fact, remains open. The report and recommendation to which complainant refers is part of another habeas case. Complainant hasn't alleged that the magistrate judge committed misconduct in this second case, nor has he provided evidence of any misconduct. His charges must therefore be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

**DISMISSED.**