

THE JUDICIAL COUNCIL OF THE SEVENTH CIRCUIT
219 South Dearborn Street
Chicago, Illinois 60604

September 17, 2012

FRANK H. EASTERBROOK
Chief Judge

Nos. 07-12-90066 to -90068

IN RE COMPLAINT AGAINST THREE JUDICIAL OFFICERS

MEMORANDUM

Complainant was the plaintiff in a suit recently decided by the court of appeals. He accuses the three appellate judges of misconduct because they “rendered a verdict ... which was not only shocking to the conscience, & a fundamental miscarriage of justice, but demonstrated gross incompetence”.

Any complaint that is “directly related to the merits of a decision or procedural ruling” must be dismissed. 28 U.S.C. §352(b)(1)(A)(ii). See also Rule 11(c)(1)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. “Any allegation that calls into question the correctness of an official action of a judge ... is merits related.” Standard 2 for Assessing Compliance with the Act, *Implementation of the Judicial Conduct and Disability Act of 1980: A Report to the Chief Justice* 145 (2006). The allegations of this complaint fit that description.

Section §352(b)(1)(A)(ii) cannot be avoided by accusing the judges of incompetence. The point of this provision is that judicial errors must be dealt with using the judicial hierarchy (a petition for rehearing, rehearing en banc, or certiorari) rather than a complaint of misconduct. Many losing litigants sincerely believe that they should have prevailed, but all judicial decisions leave one side disappointed. The appellate process, not the 1980 Act, provides the means for disagreement to be expressed.