

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

February 14, 2013

FRANK H. EASTERBROOK  
Chief Judge

No. 07-13-90012

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant was among the plaintiffs in a civil action dismissed by a district judge. Complainant accuses the judge of misconduct.

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. The remedy for a judicial error is an appeal, not a complaint under the 1980 Act.

To the extent the complaint does not concern the nature of the adverse rulings, it does contend that the judge took too long to make them. But that contention, too, is covered by §352(b)(1)(A)(ii), because a judge’s decision which matters on the dockets deserve top priority is a procedural one. See Rule 3(h)(3)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

Complainant accuses the judge of violating standards of professionalism. The complaint sets out many of these standards but omits details about what the judge did. This aspect of the complaint is dismissed under §352(b)(1)(A)(iii) as “lacking sufficient evidence to raise an inference that misconduct has occurred”. (The complaint contains

one concrete allegation: the district judge urged complainant to retain counsel. There is nothing remotely unprofessional about that advice. People have a right to represent themselves, but it is often imprudent to do so.)

To the extent the complaint concerns the behavior of counsel for the defendants, or employees of the Marshals Service, it is outside the scope of the 1980 Act, which covers only federal judges.