

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

June 22, 2010

FRANK H. EASTERBROOK  
Chief Judge

No. 07-10-90041

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant was the plaintiff in a civil suit. He contends that the district judge engaged in misconduct by taking six months to rule on defendant's motion for summary judgment, then granting that motion. He also believes that the judge labeled him "frivolous" and "moot," which he perceives as defamatory. Finally, he contends that these acts demonstrate that the judge is disabled.

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. If the judge erred, the remedy was to appeal rather than file a complaint under the 1980 Act. The time for appeal expired months ago; the 1980 Act is not a means to obtain belated review.

For the purpose of §352(1)(A)(ii), a district judge's decision to defer action is a "procedural" ruling. Although delay is regrettable, judges have discretion to decide which of the many pending cases receives first priority. Complainant does not assert that the subject judge is unable to manage his docket expeditiously; his complaint concerns only the time needed to resolve his case.

Complainant misunderstands the significance of legal words such as "frivolous" and "moot." The district judge did not say that *complainant* is frivolous or moot. The judge said this about particular motions. A legal filing is frivolous (meaning obviously wrong), or not, in an objective sense. Even the ablest lawyers sometimes make frivolous arguments; a layperson should not feel insulted when the judge applies that label, or the word moot (which in law means "no longer requires decision"), to a motion or other document.