

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

November 9, 2010

FRANK H. EASTERBROOK
Chief Judge

Nos. 07-10-90072 & -90073

IN RE COMPLAINT AGAINST TWO JUDICIAL OFFICERS

MEMORANDUM

Complainant contends that two district judges committed misconduct by interfering with magistrate judges and dismissing his suits. Complainant filed forms consenting to disposition of the suits by magistrate judges, but the district judges retained the litigation for disposition. The suits were dismissed under a preclusion order that has been in force since 1997, when the judges concluded that complainant's frivolous litigation could be halted only by forbidding the filing of new suits (with some exceptions described in the order).

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 court of appeals, not the Judicial Council, is the right body to review the orders dismissing complainant's suits. (The 1997 order does not affect complainant's ability to seek appellate review.)

No litigant is entitled to have a magistrate judge decide the suit. Under 28 U.S.C. §636(c), a suit may be referred to a magistrate judge for final decision only if all litigants, and the district judge, agree. The defendants did not agree to refer complainant's suits to a magistrate judge; neither did the district judge. Nothing inappropriate has occurred.