

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

May 31, 2007

FRANK H. EASTERBROOK
Chief Judge

No. 07-7-352-19

IN RE COMPLAINT AGAINST TWO JUDICIAL OFFICERS

MEMORANDUM

Complainant is an unsuccessful litigant. Her Title VII suit against a former employer was dismissed. After the court of appeals remanded a portion of the litigation for further proceedings, summary judgment was entered in the employer's favor on remand. No appeal was taken, but the complainant sued the district judge who made the adverse ruling. That suit was dismissed by a second district judge on the basis of judicial immunity, and that decision was affirmed by a different panel of the court of appeals.

Now, approximately three years after those suits were resolved, complainant asserts that she was entitled to prevail in the earlier litigation and that some (unspecified) judicial misconduct must have prevented that from happening. But the Judicial Conduct and Disability Act of 1980 does not permit a collateral attack on judicial rulings. 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). Many allegations of this complaint fit that description. "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).

Some allegations of the complaint are unrelated to any judicial decision. Complainant asserts, for example, that she has been subject to illegal surveillance, that "the Executive government illegally followed plaintiff," and that two of plaintiff's nieces have contracted cancer. It is unclear what these

circumstances have to do with the federal judiciary. They are outside the scope of the 1980 Act, and to the extent complainant believes that the adverse judicial decisions caused her nieces' illness and her mother's death they are also unsupported by any plausible causal chain. Litigation is often said to be responsible for social woes, but it does not cause cancer.

Other allegations of the complaint are unfathomable. For example, complainant asserts that a second district judge—who as far as I can see has never had anything to do with complainant's litigation—has insulted complainant and threatened her son. The allegation reads: "On May 16, 2007, [the judge] and members of his family harassed plaintiff by illegal surveillance. They hurled insults at plaintiff of how they had harassed and threaten her son with incarceration." At the very end the complaint again mentions "the threats incarceration of plaintiff son by [the judge] and other". The lack of detail—where did these events occur?; who said what to whom?—makes it impossible for me to ascertain what complainant thinks happened. I inquired of the judge in question, who found the allegation baffling; he told me that he had no idea what complainant could have in mind. Complainant's son does not appear to be a defendant in a criminal prosecution pending before the accused judge. (Although it is possible, though it is not alleged, that the son uses a surname different from complainant's, and that the judge therefore does not recognize the family tie, this also would mean that the judge cannot be attempting to do indirect injury to complainant.) This allegation is therefore dismissed as outside the scope of the Act and as "lacking sufficient evidence to raise an inference that misconduct has occurred". 28 U.S.C. §352(b)(1)(A)(iii).