

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

March 16, 2009

FRANK H. EASTERBROOK
Chief Judge

No. 07-09-90044

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant, the plaintiff in a suit pending in a district court, accuses the judge of misconduct because interim rulings have not favored complainant's position. Complainant asserts that the judge must be biased and has committed treason by acting without jurisdiction.

The jurisdictional point is hard to comprehend: Complainant filed the suit initially in federal court. Because defendants are state actors said to have violated the Constitution, 28 U.S.C. §1343 supplies federal jurisdiction. Complainant's position seems to be that the jurisdiction provided by §1343 allows plaintiffs to win but not lose. That is not so; once a court has jurisdiction, either side to the suit may prevail. And a judge does not display bias when ruling for one side rather than another. See *Liteky v. United States*, 510 U.S. 540 (1994). At least one litigant loses in every suit.

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). The 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). A decision not to disqualify oneself is a "procedural ruling" for the purpose of this statute. *Id.* at 146.

Complainant may contend on appeal from the final decision that the district judge has erred. That is the appropriate way to present arguments of the kind in this complaint. The Judicial Council is an administrative rather than a judicial body.

Complainant's other assertions lack any factual support and are dismissed under §352(b)(1)(A)(iii).