

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

April 7, 2010

FRANK H. EASTERBROOK
Chief Judge

No. 07-10-90021

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant, a prisoner, is the plaintiff in a recently filed civil suit. As the Prison Litigation Reform Act requires, the district judge screened the complaint before authorizing service on the defendants. The judge found the complaint deficient but thought that complainant could fix the problems, and the judge set a deadline for complainant to do so. Instead of filing an amended pleading, complainant began to file discovery requests—which the judge struck as premature. Complainant then filed a notice of appeal. The district judge entered an order providing that complainant is not entitled to proceed on appeal *in forma pauperis* because the appeal is frivolous. Complainant now accuses the judge of misconduct for making these decisions and not giving him better advice about exactly how he should fix his pleadings.

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. All of complainant’s grievances concern the judge’s rulings.

Complainant appears to believe that the Judicial Council is a court and can correct interlocutory decisions by district judges. The Council is an administrative body, not a court. Neither the council nor the court of appeals can review interlocutory decisions. Complainant must follow the district judge’s instructions. Once the case is over in the district court—that is, after the judge has entered a final decision resolving all matters complainant has presented—then it will be possible to appeal (if the final decision is adverse to complainant). Any attempt to appeal from earlier decisions will be dismissed, but will run up filing fees to be collected from his prison trust account.