

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

December 8, 2011

FRANK H. EASTERBROOK
Chief Judge

No. 07-11-90075

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant, a federal prisoner, has filed so many baseless applications for collateral relief and associated civil suits that federal judges began imposing fines for frivolous litigation. When complainant did not pay, the court of appeals entered a bar order directing the clerks of all courts within the circuit to return additional papers without filing. See *Support Systems International, Inc. v. Mack*, 45 F.3d 185 (7th Cir. 1995). This induced complainant to pay, and the order was lifted. He promptly resumed his campaign of vexatious litigation, however, and the court of appeals again entered a filing bar when complainant did not pay additional sanctions. At the moment two filing bars by the court of appeals are outstanding, and at least one district court has entered its own—though given the court of appeals’ order, which applies throughout the circuit and directs the clerk of every district court to return complainant’s papers, the district court’s order is superfluous.

Complainant asked the district court to rescind its filing bar. Instead of doing so, the district court extended it for two years. Complainant contends that this constitutes misconduct by the district court’s chief judge. But 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.

What's more, as I have mentioned, it would do complainant no good to persuade the district court to lift its own order; the two outstanding orders by the court of appeals would continue to apply. Complainant believes that perpetual filing bars are unjustified, which may be so, but the court of appeals' orders last only until complainant pays the sanctions or demonstrates a combination of inability to pay plus a resolve to desist from the sort of frivolous litigation that led to the orders' entry. As far as I can see, complainant wants the bars lifted so that he can resume the sort of filings that were his norm before the bars were entered. The judicial system's decision to protect itself from a fusillade of frivolous filings—and to protect other litigants, by conserving valuable judicial time—cannot be described as misconduct in office.