

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

March 27, 2013

FRANK H. EASTERBROOK
Chief Judge

No. 07-13-90017

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant is a federal prisoner. He believes that his conviction and sentence are invalid, but the judgment was affirmed on appeal and his collateral attack under 28 U.S.C. §2255 was unsuccessful. In recent years he had bombarded the district court with letters demanding explanations and motions demanding relief. The motions are unauthorized successive collateral attacks, which the district judge dismisses; the letters effectively seek advisory opinions, and the judge has informed complainant that they will not be replied to. Complainant accuses the judge of misconduct.

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.

Five years ago, in response to complainant’s earlier invocation of the 1980 Act (No. 08-7-352-19), I informed complainant about §352(b)(1)(A)(ii). The current complaint does not mention that statute or make any effort to show how it is compatible with the 1980 Act. Complainant must understand that his case is over, that his conviction and sentence are final, and that only the circumstances specified in 28 U.S.C. §§ 2244(b) and 2255(h) permit any further judicial action. Requests under §§ 2244(b) and 2255(h) must

be presented to the court of appeals—not to the district court, which is by law forbidden from taking any action without appellate permission, and not to the Judicial Council, which is an administrative body.