

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

July 10, 2013

FRANK H. EASTERBROOK  
Chief Judge

No. 07-13-90045

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant is the plaintiff in a civil suit. He contends that the district judge has engaged in misconduct by taking more than 150 days to rule on defendants' motion to dismiss the second amended complaint.

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. Not only how a judge allocates time but also deciding which cases most need immediate attention are procedural decisions. An "allegation about delay in rendering a decision or ruling [is covered by §352(b)(1)(A)(ii)] unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases." Rule 3(h)(3)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. Complainant does not allege that the judge in question habitually delays ruling in a significant number of cases.

Excessive delay in a particular case could support a request to the court of appeals for mandamus (though the time this matter has been under advisement is well short of what would be required for that step), but the Judicial Council does not superintend the management of ongoing litigation.