

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

May 15, 2018

FRANK H. EASTERBROOK
Circuit Judge[†]

Nos. 07-18-90032 to 07-18-90035

IN RE COMPLAINT AGAINST THREE JUDICIAL OFFICERS AND ONE FORMER JUDGE

MEMORANDUM

Complainant asserts that four appellate judges have committed state and federal crimes, and violated the Constitution, by not ruling in his favor. The only appeal specified in the complaint is still being briefed, and the only order that I can identify as arguably within the scope of the complaint is one in which three judges denied complainant's motion that they recuse themselves. Their order adds that a fourth person, whose recusal complainant sought, has retired from the judiciary.

The complaint against the person who has retired from the bench is dismissed under 28 U.S.C. §352(b)(1)(A)(i) because the Judicial Conduct and Disability Act of 1980 applies only to judges. 28 U.S.C. §351(a).

The complaint against the three persons still serving as judges is dismissed because it is "directly related to the merits of a decision or procedural ruling". 28 U.S.C. §352(b)(1)(A)(ii). "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*

[†] Handing this complaint as the most senior non-recused active judge. See 28 U.S.C. §351(c); Rule 25(f) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

Justice 145 (2006). This includes a contention that a judge erred by deciding to serve in a particular case. See Rule 3(h)(3)(A) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

The complaint lacks any details about how the four named persons have violated the Constitution and laws. 28 U.S.C. §352(b)(1)(A)(iii) thus supplies a third ground of dismissal. The motion to recuse in the pending appeal was similarly free of detail that could show some problem within the scope of the 1980 Act. Complainant, a disappointed litigant, asserts that all of his cases should be transferred to the Supreme Court or the Ninth Circuit, but no rule of law prevents judges from deciding appeals within their jurisdiction. That a decision is adverse to a given litigant does not require disqualification. See *Liteky v. United States*, 510 U.S. 540 (1994).

The 1980 Act does not provide a means to obtain review of adverse decisions, either substantive or procedural. Unsuccessful litigants instead may seek rehearing en banc or petition the Supreme Court for a writ of certiorari.

Last year complainant invoked the 1980 Act twice, Nos. 07-17-90024 and 07-17-90025, with respect to two district judges. Chief Judge Wood dismissed both of those complaints under §352(b)(1)(A)(iii) because they lacked specifics about what, if anything, those judges had done wrong. The current complaint likewise is long on denunciation but short on factual detail.

Because this is complainant's third frivolous charge, he needs to understand that complaints must be specific and not relate to the content of judicial rulings. Any future complaint that does not meet those requirements may lead the Judicial Council to enter an order restricting complainant's ability to invoke the 1980 Act.