

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

June 20, 2011

FRANK H. EASTERBROOK  
Chief Judge

No. 07-11-90034

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant, a prisoner, is the plaintiff in five suits pending in a federal district court. He maintains that a member of the prison's staff told him that someone at the court told her that two of these suits will be dismissed because some documents are not in the proper form. Complainant submits that this shows that the judge must be biased against him and asks the Judicial Council to order the case assigned to a different judge.

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 would fit that description if the suits had been dismissed—but they have not been. On the date that someone at the court supposedly told someone at the prison that dismissal was imminent, the district judge entered an order directing complainant to inform the court which of the five suits—which appear to have substantial overlaps—should be maintained, and which should be consolidated or dismissed. The district court's docket does not reflect a response to that order by complainant. Complainant should follow the district judge's instructions. If he is dissatisfied with the final decision, he can appeal. The 1980 Act does not offer a shortcut to this process.

A district judge's decision to serve in a case rather than recuse is covered by §352(b)(1)(A)(ii). See *Report* at 146. A litigant's remedy is by appeal or petition for mandamus. The Judicial Council is an administrative body, not a court.