

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

September 21, 2011

FRANK H. EASTERBROOK
Chief Judge

Nos. 07-11-90060 and -90061

IN RE COMPLAINT AGAINST TWO JUDICIAL OFFICERS

MEMORANDUM

Complainant has filed three lawsuits recently. A district judge and a magistrate judge have decided several issues adversely to complainant; his proposals to take interlocutory appeals under 28 U.S.C. §1292(b) have been denied by the subject judges, and when complainant appealed anyway, the court of appeals promptly dismissed the appeals, which the subject judges had certified as frivolous under 28 U.S.C. §1915. Moreover, complainant is dissatisfied by the way in which the magistrate judge is supervising discovery in one suit. Complainant contends that all of these decisions are erroneous and must be the result of prejudice against him.

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. The remedy for judicial error is an appeal from the final decision, not a complaint under the 1980 Act.

Adverse decisions do not demonstrate prejudice. See *Liteky v. United States*, 510 U.S. 540 (1994). Every suit has at least one loser; it does not take a hypothesis of bias to explain adverse decisions. The fact that a judge decides some, or many, issues against a particular litigant does not imply a departure from the norm of impartial adjudication.

Complainant does not offer any evidence of improper motive other than the adverse decisions; this situation is directly covered by §352(b)(1)(A)(ii). See *Report* at 146.