

THE JUDICIAL COUNCIL OF THE SEVENTH CIRCUIT

219 South Dearborn Street

Chicago, Illinois 60604

April 30, 2012

FRANK H. EASTERBROOK

Chief Judge

No. 07-12-90025

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant, a prisoner who has filed a civil suit, contends that the district judge is engaged in misconduct because four months have passed since the suit's filing without a definitive ruling under 28 U.S.C. §1915A.

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. Delay in a single suit comes within §352(b)(1)(A)(ii) because it reflects the judge's allocation of time, a procedural ruling. *Report* at 146. Which litigation receives priority depends on a judicial assessment of both the suit's potential merit and the potential harm from delay.

Complainant, whose complaint in the underlying litigation presents more than a dozen claims against 40 defendants, is in no position to demand immediate action. I am surprised that the district judge did not dismiss the complaint summarily under Fed. R. Civ. P. 18(a). See *George v. Smith*, 507 F.3d 605 (7th Cir. 2007). Perhaps that will be its fate when the judge completes screening. That is, however, a matter of case management outside the scope of the 1980 Act.

Complainant filed an earlier grievance under the 1980 Act (No. 07-11-90057), against a different judge, which like the current one asserts that the judge committed misconduct by delay in making rulings in a sprawling, multi-defendant complaint (38 in that suit). My disposition of that complaint relied on §352(b)(1)(A)(ii). Complainant has ignored both the statute and my prior decision. Any further complaint making similar allegations, or failing to make a serious effort to show how it is compatible with §352(b)(1)(A)(ii), will be dismissed summarily, and I will order complainant to show cause why the Council should not curtail his misuse of the 1980 Act's procedures.