

THE JUDICIAL COUNCIL OF THE SEVENTH CIRCUIT

219 South Dearborn Street
Chicago, Illinois 60604

May 11, 2007

FRANK H. EASTERBROOK
Chief Judge

No. 07-7-352-18

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant is a federal prisoner, serving a long sentence for a violation of the Hobbs Act, 18 U.S.C. §1951. He was indicted in 2000; he was found guilty by a jury in 2001; his conviction was affirmed in 2002.

Complainant maintains that the district judge's rulings before and during trial were unduly favorable to the prosecutor. He also appears to believe that had all facts and legal theories been explained to the grand jury, it would not have "granted federal jurisdiction". The latter argument reflects a legal misunderstanding. Subject-matter jurisdiction exists, by virtue of 18 U.S.C. §3231, in all prosecutions that allege the violation of a federal statute. See *United States v. Martin*, 147 F.3d 529 (7th Cir. 1998). Complainant's real argument is that the interstate-commerce component of the Hobbs Act offense was not established. That argument, however, was presented and resolved against him on direct appeal. A proceeding under the Judicial Conduct and Disability Act of 1980 is not a means to relitigate such issues.

Nor, for that matter, does the 1980 Act permit a collateral inquiry into the district judge's handling of pretrial and trial procedures. 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). The allegations of this complaint fit that description. "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).