

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

April 13, 2010

FRANK H. EASTERBROOK
Chief Judge

No. 07-10-90022

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

This complaint arises from events that post-date those addressed in No. 07-10-90020. The Executive Committee of a district court ordered that complainant, a frequent (and frequently obstreperous) litigant, be accompanied by security personnel while in the courthouse. I concluded in No. 07-10-90020 that this order did not constitute judicial misconduct.

Recently complainant entered the courthouse, accompanied as required, and filed some documents in the clerk's office. She then proposed to visit the court's library, which the security detail would not allow. She demanded to speak personally to the chief judge and clerk of court. When they did not appear, complainant (in her own words) "sat on the floor and told these nasty men and a woman that she would not leave and they should back off so she could get up and use the law library." She was then arrested for trespass and confined in the court's lockup. After appearing before a district judge, she was released. She accuses this district judge of misconduct. Just what misconduct is unclear; a person arrested for a federal misdemeanor receives an initial appearance before a judge under Fed. R. Crim. P. 58(b)(2). Refusing an order to leave a federal building is a form of trespass, which is a petty offense under federal law. But apparently complainant believes that anyone who has anything to do with the Executive Committee's order must be engaged in misconduct.

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 subject judge was presiding in a proceeding required by law. Complainant will be entitled to appellate review if the United States Attorney pursues the matter and complainant is convicted. Proceedings under the 1980 Act are not a means to obtain review of ongoing steps in a pending case.

Both the district court and the court of appeals have concluded that complainant is a vexatious litigant. The court of appeals has entered an order providing that complainant may not file any further proceedings in forma pauperis. The district court recently entered an order providing that complainant cannot commence any civil actions (other than petitions for writs of habeas corpus) for one year. Orders such as this are reviewable by appeal—and an appeal belongs in the court of appeals, not the Judicial Council. Complainant's recent filings under the 1980 Act lead to concern that she may have decided to turn to this no-fee forum to express her frustrations and grievances. Complainant must endeavor in any future filing to explain why it is within the scope of the 1980 Act. Failure to do this will lead me to direct complainant to show cause why the Council should not enter an order curtailing frivolous use of the 1980 Act's procedures. See Rule 10(a) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.