

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

March 11, 2009

FRANK H. EASTERBROOK
Chief Judge

No. 07-09-90026

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant has recently been convicted of a federal crime and is in prison while his appeal proceeds. He contends that the district judge committed misconduct by denying a motion to dismiss under the Speedy Trial Act only 24 hours after the motion was filed, and before the motion could be argued by defense counsel.

It is not clear to me that the motion was denied in advance of the argument; the docket entry may have been mis-dated. Why would a judge entertain a 90-minute argument on a motion that had already been denied? There is no misconduct in denying (or granting) a motion without oral argument; this happens all the time and is essential if judges are to handle litigation with appropriate dispatch.

At all events, denying a motion before oral argument is not a basis for action under the Judicial Conduct and Disability Act of 1980. 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). Complainant may present his argument to the court of appeals. The Judicial Council, an administrative body, does not review rulings in the conduct of litigation.