

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

March 27, 2009

FRANK H. EASTERBROOK
Chief Judge

No. 07-09-90048

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant, a state prisoner, contends that the district judge who denied his petition for a writ of habeas corpus committed misconduct by not appointing counsel or holding a hearing. The complaint was made on the form that the state judiciary supplies for complaints against state judges, but it has been transferred to the Judicial Council and treated as a complaint 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). When to hold hearings, and whether to appoint counsel, are procedural rulings covered by this rule.

The appropriate forum for complainant’s argument that the district judge erred would have been the court of appeals. Complainant allowed the time for appeal to pass without action. A complaint under the 1980 Act is not an alternative forum. The Judicial Council is an administrative rather than a judicial body.