

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

May 6, 2009

FRANK H. EASTERBROOK
Chief Judge

No. 07-09-90059

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

A district judge concluded that complainant's federal claim is frivolous and declined to allow complainant to proceed without paying the usual fees. The judge dismissed all state-law theories without prejudice, so that they could be litigated in state court.

Complainant believes that the judge should have allowed this case to proceed in federal court. But this is a ground for appeal, not for 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). See 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.