

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

May 18, 2010

FRANK H. EASTERBROOK  
Chief Judge

No. 07-10-90027

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant is the plaintiff in a civil suit. The district court ruled in defendant's favor, and the court of appeals affirmed. Complainant then asked for relief under Fed. R. Civ. P. 60(b)(3), contending that the defendant committed fraud on the court. The district judge denied this motion, and complainant now charges the judge with 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. Whether the defendant (or the defendant's lawyer) made false statements to the court has nothing to do with whether *the judge* has committed misconduct. Complainant believes that the judge has failed to detect defendant's misbehavior; that sort of allegation is squarely within the scope of §352(b)(1)(A)(ii). If complainant believes that the district judge has erred, the right response is an appeal rather than a complaint under the 1980 Act.