

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

October 20, 2010

FRANK H. EASTERBROOK
Chief Judge

No. 07-10-90068

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant, a federal prisoner, filed a motion for collateral review under 28 U.S.C. §2255. He contended that his sentence is excessive because the court deemed one of his prior convictions a violent felony. Complainant argued that the conviction did not qualify for that treatment. The district judge rejected his argument. Complainant contends that the judge committed misconduct by reaching this conclusion.

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 court of appeals, not the Judicial Council, is the right forum for arguments that district judges have erred. Complainant appealed, and the court of appeals remanded for further proceedings—though on a ground different from the one that complainant now advances. An appellate court’s conclusion that a district judge erred does not imply that any misconduct occurred.