

THE JUDICIAL COUNCIL OF THE SEVENTH CIRCUIT

219 South Dearborn Street
Chicago, Illinois 60604

January 12, 2011

FRANK H. EASTERBROOK
Chief Judge

No. 07-11-90009

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant is a federal prisoner. While in prison, complainant has commenced civil litigation that has been assigned to the judge who sentenced him. Complainant believes that this is inappropriate and that he is entitled to have some other judge handle his current litigation. The subject judge has denied complainant's motion for recusal, and complainant now accuses the judge of 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. A judge's decision to continue serving in a suit is a "procedural ruling" for the purpose of §352(b)(1)(A)(ii) unless the judge actually knows that recusal is required. *Report* at 146. The complaint offers no reason to think that the subject judge knows that he is disqualified. The judge's knowledge of complainant's situation was gathered in the course of litigation, not from any extrinsic source, and the fact that the judge has consistently ruled against complainant's legal contentions may reflect only their lack of merit, and not any bias. See *Liteky v. United States*, 510 U.S. 540 (1994). It is normal for federal judges to resolve multiple suits by, or against, a particular litigant, and doing this does not entail misconduct.