

THE JUDICIAL COUNCIL OF THE SEVENTH CIRCUIT

219 South Dearborn Street  
Chicago, Illinois 60604

February 22, 2011

FRANK H. EASTERBROOK  
Chief Judge

No. 07-11-90018

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant was among the defendants in a civil suit that has recently been concluded. He contends that the district judge committed misconduct by (a) receiving evidence from a particular expert witness, and (b) not ascertaining that the magistrate judge who played a role in the proceedings was (in complainant's view) disqualified under 28 U.S.C. §455.

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 decision to admit evidence was a procedural ruling. Likewise a decision to assign some matters to a particular magistrate judge was a procedural ruling.

If the judge erred, the remedy was by appeal. Complainant appealed but did not present either of these issues to the court of appeals, and the judgment has been affirmed. A complaint under the 1980 Act is not a means to raise appellate issues belatedly.