

THE JUDICIAL COUNCIL OF THE SEVENTH CIRCUIT

219 South Dearborn Street
Chicago, Illinois 60604

March 23, 2011

FRANK H. EASTERBROOK
Chief Judge

No. 07-11-90024

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant, a lawyer, filed an earlier complaint (No. 07-10-90054) against the same district judge. That complaint was dismissed, largely on the basis of 28 U.S.C. §352(b)(1)(A)(ii), which provides that the Judicial Conduct and Disability Act of 1980 does not apply to any action that is “directly related to the merits of a decision or procedural ruling”.

The current complaint, like the last, relates to the judge’s decisions. Complainant asserts that the judge committed misconduct by entering an order, dated February 16, 2011, that requires complainant to comply with an earlier order that complainant apparently has ignored. The order of February 16 states that, if defiance continues, the judge will issue an order to show cause and require complainant to appear in person. Section §352(b)(1)(A)(ii) squarely applies to this situation. What complainant wants is a form of interlocutory appellate review. That is not the function of the 1980 Act. Yet complainant, who must be aware of §352(b)(1)(A)(ii), does not mention that statute or attempt to show how this latest complaint is compatible with it.

Once the district court has issued a final decision, complainant may seek appellate review (if the decision is adverse). Frivolous complaints under the 1980 Act will not expedite that process.