

THE JUDICIAL COUNCIL OF THE SEVENTH CIRCUIT

219 South Dearborn Street
Chicago, Illinois 60604

November 8, 2011

FRANK H. EASTERBROOK
Chief Judge

No. 07-11-90067

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant, a prisoner, filed a collateral attack on his conviction and consented to have the petition decided by a magistrate judge. He contends that the assigned magistrate judge has committed misconduct by delay in conducting the preliminary review required by Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts.

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 *Report* concludes that delay in a single case is covered by §352(b)(1)(A)(ii). Expeditious resolution of collateral attacks on criminal judgments is desirable; it would be unfortunate for anyone to remain in prison because of judicial delay. But all judges must decide which cases receive the highest priority. Doing so entails a procedural ruling. Complainant does not contend that the subject judge is generally unable or unwilling to handle her docket in a timely fashion; the grievance concerns his case, in particular, and thus is within §352(b)(1)(A)(ii).