

THE JUDICIAL COUNCIL OF THE SEVENTH CIRCUIT

219 South Dearborn Street  
Chicago, Illinois 60604

May 29, 2012

FRANK H. EASTERBROOK  
Chief Judge

No. 07-12-90030

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant contends that the district judge committed misconduct by deciding several issues adversely to him in a criminal prosecution, by imposing an illegal sentence, and by not detecting the prosecutor's false submissions.

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. They concern the judge's decisions, for which the remedy is an appeal rather than a complaint under the 1980 Act.

Complainant observes that a conspiracy between the judge and the prosecutor is outside the scope of §352(b)(1)(A)(ii). That is true but does not assist him. The complaint does not supply any reason to think that the judge was in cahoots with the prosecutor. This aspect of the complaint is dismissed under §352(b)(1)(A)(iii) because it is "lacking sufficient evidence to raise an inference that misconduct has occurred". Adverse decisions do not imply bias or conspiracy. See *Liteky v. United States*, 510 U.S. 540 (1994).