

THE JUDICIAL COUNCIL OF THE SEVENTH CIRCUIT

219 South Dearborn Street
Chicago, Illinois 60604

December 6, 2006

FRANK H. EASTERBROOK
Chief Judge

No. 06-7-372-45

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

The complainant, the defendant in a criminal prosecution, contends that the district judge “accepted a non-qualifying change of plea hearing,” “accepted a non-qualifying plea-contract,” and “accepted a non-qualifying conviction statute”. I understand this to mean that the complainant believes that the district judge did not comply with Fed. R. Crim. P. 11 when accepting the plea of guilty (and accompanying plea bargain) and that the statute under which complainant was prosecuted should not have been applied to his conduct. This is what complainant maintained in a motion to withdraw his plea, a motion that the district judge denied on May 12, 2006, before imposing sentence.

A judicial-misconduct complaint is not, however, a means to obtain review of the judge’s rulings in the litigation. Any complaint that is “directly related to the merits of a decision or procedural ruling” must be dismissed. 28 U.S.C. §351(b)(1)(A)(ii). The allegations of this complaint fit that description. “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 complainant’s arguments can be presented on appeal. That is a sufficient reason to dismiss this complaint under §351(b)(1)(A)(ii).