

THE JUDICIAL COUNCIL OF THE SEVENTH CIRCUIT
219 South Dearborn Street
Chicago, Illinois 60604

May 2, 2007

FRANK H. EASTERBROOK
Chief Judge

No. 07-7-352-17

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant accuses a district judge of “conspiring” with the clerk of court to prevent an appeal. As complainant sees things, this was an administrative rather than a judicial ruling.

The district judge entered on January 11, 2007, an order providing that complainant, a prisoner who has “struck out” under 28 U.S.C. §1915(g) yet continues to file suits without prepaying the required fees, may not file any further document until all fees have been paid. That approach to dealing with plaintiffs who continue filing suits while refusing to pay required fees has substantial legal support. See, e.g., *Sloan v. Lesza*, 181 F.3d 857 (7th Cir. 1999); *Campbell v. Clarke*, No. 06-3138 (7th Cir. Apr. 2, 2007). But whether the district court erred entering such an order for this particular litigant is a subject that the litigant is entitled to test on appeal, and the bar order entered on January 11 instructed the clerk to return *every* document, a scope that literally includes a notice of appeal. When complainant tendered a notice of appeal, it was returned unfiled; another notice of appeal, sent to the court of appeals and routed to the district court, also was returned unfiled.

It was apparent to me that the bar order had been poorly worded, so I asked the district judge whether he meant to preclude an appeal. The judge replied that he did not, and the order has been amended. Complainant’s notice of appeal now has been filed and forwarded to the court of appeals. That action corrects the conduct that aggrieves complainant, so this complaint is dismissed under 28 U.S.C. §352(b)(2).

Complainant must recognize, however, that this action does not relieve him of the need to pay all required fees in both the district court and the court of appeals. The pursuit of a frivolous appeal may lead to additional sanctions.