

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

May 30, 2007

FRANK H. EASTERBROOK
Chief Judge

No. 07-7-352-21

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant filed a civil action against employees of the state prison where he is being held. He contends that defendants violated the Constitution by failing to provide him with underwear and socks free from rubber, to which he has an allergic reaction. The district court entered judgment for the defendants, and an appeal was dismissed after complainant failed to pay the filing and docket fees. Now he maintains that the district judge committed misconduct by failing to provide relief—either in adjudicating the complaint or in response to a Rule 60(b) motion that he filed after his appeal had been dismissed.

The Judicial Conduct and Disability Act of 1980 does not permit a collateral attack on judicial rulings. 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). 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).

Although complainant submits that the judge failed to attend carefully to his allegations and take his grievance seriously, that just makes it clear that he is contesting “the correctness of an official action of a judge”. A judge is not an ombudsman required to listen sympathetically and keep the office door open. Once a case has been decided, a judge need not continue to receive and

respond to post-judgment filings, even if the losing litigant earnestly believes that he had been wronged and should have prevailed. The legal system operates on the principle that one round of litigation per claim is sufficient.

The complaint also alleges that the court has imposed excessive filing fees, but this appears to reflect a misunderstanding. Two fees are due: one for filing the complaint, another for the appeal. Under federal rules, both sets of fees are collected by the clerk of the district court. The fact that complainant failed to remit the appellate fees in a timely fashion after his application for leave to proceed *in forma pauperis* was denied does not relieve him of the need to pay. The obligation is incurred by filing a particular document (a complaint or notice of appeal) and must be satisfied whether or not the litigant obtains an outcome he deems adequate (“his money’s worth,” as the complaint under the 1980 Act puts it). If complainant had prevailed, then these costs would have been shifted to the defendants; because he lost, however, he must pay himself.