

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

June 19, 2007

FRANK H. EASTERBROOK  
Chief Judge

No. 07-7-352-25

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant, a prisoner, has two civil actions pending before a federal judge. A conference was set for May 3, 2007; complainant was to participate by speakerphone from prison. On May 3, however, complainant was in another judge's courtroom rather than in prison. The complained-of judge arranged to conduct the conference on May 3 by speakerphone link to the other judge's courtroom. Complainant argues that the judge should instead have granted a continuance, and that during the conference the judge's voice was "loud" and he did not allow complainant to make the presentation he desired.

To the extent the complaint concerns the denial of a continuance, or ending the conference before complainant had said everything he wanted to say (as opposed to what the judge thought was relevant), it is barred by 28 U.S.C. §352(b)(1)(A)(ii), which provides that any complaint "directly related to the merits of a decision or procedural ruling" must be dismissed. "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).

To the extent that complainant disagrees with the judge's "loud" voice and "overtalking" of his attempts to speak, he misunderstands speakerphone technology. Volume depends not on how the person at the other end of the line is speaking, but on how high the gain control of the local equipment is set. The phenomenon that complainant calls "overtalking" is caused by half-duplex

phone circuits; in such a setup, a person who is talking cannot tell whether the party at the other end of the line also is talking (or trying to break in). These allegations are dismissed under §352(b)(1)(A)(i) because they do not demonstrate judicial misconduct.