

THE JUDICIAL COUNCIL OF THE SEVENTH CIRCUIT

219 South Dearborn Street
Chicago, Illinois 60604

November 5, 2007

FRANK H. EASTERBROOK
Chief Judge

No. 07-7-352-41

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant filed a motion, purportedly under Fed. R. Civ. P. 60(b)(4), asking a district court to vacate a criminal conviction entered almost 40 years ago. He believes that the district judge failed to resolve his motion with sufficient dispatch—though the court acted within two months after of the motion’s filing—and that the judge has failed to address other motions that he has filed more recently.

The apparatus established by the Judicial Conduct and Disability Act of 1980 is not a means to obtain review of judicial decisions, see 28 U.S.C. §352(b)(1)(A)(ii), and for this purpose a judge’s decision about when to take up a particular matter is “directly related to the merits of a decision or procedural ruling” and therefore must be dismissed. See Standard 2 for Assessing Compliance with the Act, *Implementation of the Judicial Conduct and Disability Act of 1980: A Report to the Chief Justice* 146 (2006) (“A complaint of delay in a single case is properly dismissed as merits related.”). Judges must set priorities and may choose to give low priority to motions of the sort that complainant has filed. The Rules of Civil Procedure do not apply to criminal cases, and 40 years is long past the one-year limit for collateral review of criminal judgments. See 28 U.S.C. §2255 ¶6. A prisoner may have an ample supply of time on his hands, but this does not create an entitlement to consume a district judge’s time as well; other litigants with better-justified claims on judicial resources would be the losers if prisoners may demand immediate attention to whatever motions they choose to file decades after their convictions.