

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

November 5, 2007

FRANK H. EASTERBROOK
Chief Judge

No. 07-7-352-45

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant has filed and lost one suit (Case #1) in a district court. He has not only appealed in that case but also commenced a similar suit (Case #2) in district court. He accuses the district judge of “delaying and prejudicing” Case #2 by acting in it while Case #1 is on appeal. Complainant believes that filing an appeal in Case #1 deprives the district judge of authority to act in Case #2—even, apparently, to delay a decision in Case #2 while Case #1 is on appeal.

That belief is incorrect. Separate suits may be handled separately in the district court, whether or not they are related to other cases on appeal. The same judge may handle both suits if the district court’s rules authorize that step. Complainant’s belief about the consequence of his appeal in Case #1 also is irrelevant, because the Judicial Conduct and Disability Act of 1980 does not permit the Judicial Council to review any action “directly related to the merits of a decision or procedural ruling”. 28 U.S.C. §352(b)(1)(A)(ii). “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). Complainant’s allegations fit that description.