

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

April 29, 2008

FRANK H. EASTERBROOK
Chief Judge

No. 07-08-90022

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant is the plaintiff in civil litigation. A magistrate judge recommended that the suit be dismissed, with prejudice, because complainant had not provided in discovery information that the court had directed him to produce. The district judge agreed with this recommendation and ordered the suit terminated. Complainant sees these acts as proof that the magistrate judge and district judge must be biased in favor of the defendant. He also contends that the court should have provided him with a better explanation of the reasons for dismissal.

The magistrate judge's report, though brief (three pages), fully explains the reasons for decision. The district judge adopted the report as his own decision. Neither the magistrate judge nor the district judge has violated Circuit Rule 50. To the extent that complainant disagrees with the substance of the decision, that is a matter for appeal rather than action under the Judicial Conduct and Disability Act of 1980. 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). See Rule 11(c)(1)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. "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). The allegations of this complaint fit that description.

Complainant offers not a shred of evidence for the serious charge that the judge is in the defendant's pocket or otherwise biased. The complaint's structure is along the lines of: "I should have won; instead I lost; thus the judge and the other side must have been in cahoots." That's not a sensible inference; it does not take an assumption of bias to explain the fact that one side or the other must lose every lawsuit that is not settled, and that many of these unsuccessful litigants think that they should have prevailed. To the extent complainant alleges that the real reason for the adverse decision is other than the

ostensible one, the complaint is dismissed because it lacks “sufficient evidence to raise an inference that misconduct has occurred”. 28 U.S.C. §352(b)(1)(A)(iii).