

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

June 3, 2008

FRANK H. EASTERBROOK
Chief Judge

No. 07-08-90046

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant filed and lost a civil suit. He proposed to appeal in forma pauperis, but the district judge certified that the appeal had been taken in bad faith, and that complainant therefore had to pay the \$455 filing and docket fees in order to proceed with the appeal. See 28 U.S.C. §1915(a)(3). Complainant then asked the court of appeals to allow him to proceed without paying the fees, notwithstanding the district judge's order. The court of appeals denied that motion. Complainant did not pay the fee, and his appeal was dismissed.

Now complaint asserts that, by denying his motion, the appellate judges committed misconduct. But 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. The entry of an order requiring a person to prepay the filing fee is a "procedural ruling" for the purpose of this statute and therefore is not a proper basis for a complaint.