

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

July 17, 2008

FRANK H. EASTERBROOK
Chief Judge

No. 07-08-90062

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant is a federal prisoner. The court of appeals affirmed his conviction and sentence in 2002. Last year complainant accused the district judge who presided at his trial (and denied his motion under 28 U.S.C. §2255) of misconduct. I dismissed that complaint, No. 07-7-352-18, in a memorandum explaining that the Judicial Conduct and Disability Act of 1980 does not permit review of judicial decisions and that 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).

Now complainant is back with allegations that, he asserts, have nothing to do with the judge’s rulings. He checked “no” to the question whether the complaint concerns “the behavior of the judge(s) in a particular lawsuit”. That statement is false, and complainant’s effort to evade §352(b)(1)(A)(ii) is unavailing. The complaint asserts that the judge is “doing everything in his power to cover up a vigilante crime committed by ... prosecutor [name omitted] ... to illegally imprison me that I am a born citizen of the United States”. In other words, complainant thinks that an Assistant United States Attorney committed a federal offense to have prosecuted him (or perhaps to prosecute any citizen), and that the judge should have dismissed the indictment. The only way in which the judge “covered up” anything, as far as I can tell from the complaint, is that he has ruled against complainant on the merits during the prosecution and §2255 proceedings. Adverse decisions differ from a “cover up” of crime.

To repeat what I told complainant last year: The 1980 Act does not permit review of a judge’s decisions. A district judge does not commit misconduct by ruling adversely to a litigant’s contentions, no matter how fervently the litigant believes that he should have prevailed.

Complainant repeatedly refers to the prosecutor as the judge’s “friend” but does not provide any reason to think that the judge and the prosecutor have anything other

than a strictly professional relationship. Assistant United States Attorneys appear in court frequently, and judges come to know them without any impropriety. Even a friendship out of court does not require disqualification. See *United States v. Murphy*, 768 F.2d 1518 (7th Cir. 1985). Complainant does not contend that the judge was disqualified (apparently complainant wanted the judge to banish the prosecutor from the case, not to step aside himself), but at all events a judge's decision to continue serving in a case is a "procedural decision" within the scope of §352(b)(1)(A)(ii). 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).

Any further filings by complainant will be summarily dismissed unless he can demonstrate that they are within the scope of the 1980 Act.