

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

August 26, 2008

FRANK H. EASTERBROOK
Chief Judge

No. 07-08-90071

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainants contend that a district judge took an unsupported legal position while he was an officer of the Executive Branch. Complainants characterize this as “criminal misconduct and public corruption,” and they have filed a civil suit against him (and other defendants). They also have filed this complaint under the Judicial Conduct and Disability Act of 1980.

The complaint does not assert that the subject judge has engaged in any inappropriate action *as a judge*. Indeed, complainants do not say that he has done anything at all in a judicial capacity. It is possible in principle for crimes committed in a non-judicial capacity to reveal unfitness for judicial service, but the allegations against the subject judge are not of that kind. The underlying dispute concerns the scope of federal regulatory authority over land near an airport. Although complainants apply words such as “criminal” and “corrupt” to any position with which they disagree, there is a vast gulf between taking an incorrect view of federal regulatory authority (if the subject judge’s view was incorrect, a matter still being litigated) and demonstrating unfitness for judicial office. The complaint is therefore dismissed under 28 U.S.C. §352(b)(1)(A)(i), because it does not allege any activity that is within the scope of the 1980 Act. See 28 U.S.C. §351.