

THE JUDICIAL COUNCIL OF THE SEVENTH CIRCUIT

219 South Dearborn Street
Chicago, Illinois 60604

September 15, 2008

FRANK H. EASTERBROOK
Chief Judge

No. 07-08-90078

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant, a prisoner, filed a petition for a writ of habeas corpus. The district judge assessed a partial filing fee of 62¢ under 28 U.S.C. §1915(b). Complainant failed to pay, and the action was dismissed. This complaint, which surely cost more than 62¢ to prepare and mail, followed.

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). The allegations of this complaint fit that description. “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 asserts that the judge is a friend of the warden and therefore is disqualified. The complainant does not furnish any evidence of the supposed friendship, and social acquaintance does not disqualify a judge. See *United States v. Murphy*, 768 F.2d 1518, 1537–38 (7th Cir. 1985). Complainant seems to believe that the judge would have received the 62¢ and so is disqualified for financial interest. The belief is false; all filing fees are deposited into accounts provided by statute for the benefit of the United States. At all events, a judge’s decision to hear a given case rather than recuse is covered by §352(b)(1)(A)(ii), because it is a procedural ruling in the litigation. See *Implementation of the Judicial Conduct and Disability Act of 1980: A Report to the Chief Justice* at 146.