

Judicial Council of the Seventh Circuit
219 South Dearborn Street
Chicago, Illinois 60604

October 31, 2008

Circuit Judge Joel M. Flaum*

No. 07-08-90095

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant has filed a complaint against a judge who has dismissed judicial misconduct complaints that the complainant filed against four judges. The complaints against three of the judges were dismissed because the allegations of misconduct were the judges' rulings in the underlying litigation. The complaint against the fourth judge was dismissed because it failed to allege that the judge had engaged in any inappropriate action as a judge.

A reading of the current complaint establishes that the allegations are directly related to the merits of the judge's decisions to dismiss the underlying judicial misconduct complaints. If the complainant was dissatisfied with the judge's rulings on his original misconduct complaints, then the appropriate avenue of relief would be to file a petition to review with the Seventh Circuit Judicial Council. He chose not to proceed in this fashion. A judicial misconduct proceeding is not a permissible alternative to the petition for review. It is not an error-correction device. See 28 U.S.C. § 351 and House of Representatives Report No. 96-1313, 96th Cong., 2nd Sess. (1980) at 10. If the judges erred, the remedy is not through the judicial misconduct complaint process. The Commentary on Rule 3(h) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings specifically excludes challenging the correctness of a chief judge's determination to dismiss a misconduct complaint.

This complaint is dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) and Rule 11(c)(1)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

*This complaint was assigned to Circuit Judge Joel M. Flaum pursuant to 28 U.S.C. § 351(c).