

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

October 31, 2008

FRANK H. EASTERBROOK
Chief Judge

No. 07-08-90102

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant is the plaintiff in litigation now pending in a district court. He believes that the magistrate judge who is supervising pretrial matters has unduly favored defendants.

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). Pretrial orders are “procedural rulings” covered by §352(b)(1)(A)(ii). If complainant believes that the orders are erroneous, he may ask the district judge for relief—and, after a final decision has been entered, may present his arguments to the court of appeals. The Judicial Council, an administrative body, does not review rulings in the conduct of litigation.

Complainant asserts that the magistrate judge is “friends with” one of defendants’ attorneys. The complainant does not describe the nature of this friendship (the complaint lacks details of any kind), and social acquaintance does not disqualify a judge. See *United States v. Murphy*, 768 F.2d 1518, 1537–38 (7th Cir. 1985). 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.