

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

April 3, 2009

FRANK H. EASTERBROOK
Chief Judge

No. 07-09-90051

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant is the plaintiff in a civil action that has recently concluded in the district court. She contends that the district judge committed misconduct by not recruiting a second lawyer to represent her (after she rejected the assistance of a lawyer recruited by the judge), by granting summary judgment for the defendants, by calling one of her arguments frivolous, and by “behav[ing] in a manner that was insecure and non-supportive” of her contentions.

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). The grant of summary judgment is a decision on the merits (as is the judge’s conclusion that one of complainant’s motions was frivolous), and the decision not to recruit a second lawyer was a procedural ruling. All of these decisions may be challenged in the court of appeals (complainant has an appeal pending); the Judicial Council is an administrative rather than a judicial body.

It is not a judge’s job to be “supportive” of one side or the other; a judge is a neutral rather than an advocate. Calling an argument “frivolous” is not misconduct; many arguments *are* frivolous, and whether the one complainant advanced was in that category is an appropriate subject for an appeal rather than a complaint under the 1980 Act. Complainant appears to believe that she has an absolute right to appointed counsel in this civil case, and that she may reject lawyers until the judge appoints one she prefers. There is no such right. See *Pruitt v. Mote*, 503 F.3d 647 (7th Cir. 2007) (en banc).