

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

May 12, 2009

FRANK H. EASTERBROOK
Chief Judge

No. 07-09-90061

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant, a federal prisoner, filed an action under 28 U.S.C. §2241 this March. He contends that the district judge committed misconduct by not issuing a decision before complainant was transferred to a different prison. Unwillingness or inability to make prompt decisions shows disability or misconduct, according to the complaint.

There are two problems with this contention. One is that 28 U.S.C. §352(b)(1)(A)(ii), provides that any complaint "directly related to the merits of a decision or procedural ruling" must be dismissed. See Rule 11(c)(1)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. "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). "A complaint of delay in a single case is properly dismissed as merits related." *Id.* at 146.

Complainant's second problem is that the district judge did not tarry. The judge dismissed the petition more than a month before complainant filed his charge under the 1980 Act. Resolving a §2241 petition in less than 30 days cannot reasonably be understood as demonstrating excessive delay.