

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

July 6, 2009

FRANK H. EASTERBROOK
Chief Judge

No. 07-09-90075

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant, the plaintiff in a civil suit, contends that the district judge committed misconduct by dismissing his complaint under Fed. R. Civ. P. 12(b)(6).

Last February complainant filed another proceeding, against the same district judge, under the Judicial Conduct and Disability Act of 1980. The February complaint asserted that the judge had committed misconduct by not acting more expeditiously on pending motions. In dismissing that complaint (No. 07-09-90020), I informed complainant that complaint “directly related to the merits of a decision or procedural ruling” must be dismissed. 28 U.S.C. §352(b)(1)(A)(ii).

The current complaint ignores §352(b)(1)(A)(ii), though it is squarely covered by the statute. Complainant’s grievance concerns the substance of the judge’s decision. It is outside the scope of the 1980 Act and must be dismissed. “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).

This is the third proceeding under the 1980 Act that complainant has initiated within eight months. When dismissing the others, I warned complainant that any future complaint disregarding 28 U.S.C. §352(b)(1)(A)(ii) would be dismissed summarily and would lead me to consider whether the Judicial Council should enter an order to halt repetitious, frivolous use of the 1980 Act’s mechanism. I now direct complainant to show cause within 14 days why such an order should not be entered. See Rule 10(a) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.