

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

January 22, 2010

FRANK H. EASTERBROOK
Chief Judge

No. 07-10-90005

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Three months ago complainant charged a district judge with misconduct because the judge to whom complainant's civil suit was assigned had directed complainant to pay the filing fee, which complainant failed to do. I dismissed that complaint (No. 07-09-90091) because the Judicial Conduct and Disability Act of 1980 does not permit challenges to judicial rulings. 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). See also 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).

Earlier this month complainant filed another lawsuit. The district judge has entered an order directing complainant either to pay the \$350 filing fee or demonstrate inability to do so. (The latter option is unavailable as a practical matter, because while in prison during the 1990s complainant "struck out" under the Prison Litigation Reform Act by filing at least three frivolous suits. See 28 U.S.C. §1915(g). He is now back in prison, so the PLRA again applies.) Instead of paying, or attempting to demonstrate that payment is unnecessary under the terms of §1915(g), complainant immediately charged the district judge with misconduct.

This complaint does not mention §352(b)(1)(A)(ii) or my prior order. But §352(b)(1)(A)(ii) nonetheless applies. This complaint therefore is dismissed. Any future complaint that similarly disregards §352(b)(1)(A)(ii) will be dismissed summarily, and I will direct complainant to show cause why future frivolous filings should not be curtailed. See Rule 10(a) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.