

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

March 23, 2010

FRANK H. EASTERBROOK
Chief Judge

No. 07-10-90015

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant was the plaintiff in civil litigation. The district court dismissed the complaint and concluded that an appeal would be frivolous, so that complainant could not appeal *in forma pauperis*. The court of appeals agreed with this assessment. When complainant failed to pay the appellate fees, his appeals were dismissed for lack of payment. Now complainant contends that the district judge committed misconduct by deciding the suit adversely to him.

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). The allegations of this complaint fit that description. Complainant’s sole grievance is the adverse decision; the remedy he seeks is reinstatement of his suit. But the Judicial Council is an administrative rather than a judicial body. Complainant’s failure to pay required fees brought his litigation to a close.

This is complainant’s second proceeding under the 1980 Act. Four months ago I dismissed a similar complaint against a different district judge. No. 07-09-90133. My decision in that proceeding informed complainant about §352(b)(1)(A)(ii). His current complaint, however, ignores both that statute and my decision. It is hard to avoid the conclusion that the complaint has been filed to harass the district judge rather than to bring misconduct to light. Any further complaint that does not include a bona fide effort to show how it is compatible with §352(b)(1)(A)(ii) will lead me to issue an order directing complainant to show why the Council should not enter an order curtailing his frivolous resort to the 1980 Act’s machinery. See Rule 10(a) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.