

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

August 13, 2010

FRANK H. EASTERBROOK
Chief Judge

No. 07-10-90050

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant is a state prisoner who has filed in federal court multiple actions seeking release. The subject judge has denied complainant's request for immediate release and has concluded that some of complainant's filings are unauthorized second or successive petitions, which the district judge has dismissed.

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. The remedy for a judicial error is by appeal. Complainant has filed several; some are pending in the court of appeals.

Complainant expresses particular unhappiness that the district judge has refused to rule on the merits on several of his more recent filings. Complainant appears to believe that by styling his papers as a request for certiorari rather than habeas corpus, he can avoid statutory limitations on successive collateral attacks. Complainant is mistaken. See *Melton v. United States*, 359 F.3d 855 (7th Cir. 2004). At all events this sort of argument does not avoid §352(b)(1)(A)(ii). The district judge's decisions are the sort of rulings to which that statute refers.