

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

August 25, 2010

FRANK H. EASTERBROOK
Chief Judge

No. 07-10-90053

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant was the plaintiff in civil litigation that was dismissed earlier this year. He contends that the district judge committed misconduct by not deciding in his favor.

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 believes that the judge erred not only on the merits but also by presiding in the first place. The complaint does not say why he thinks the judge disqualified, but no matter. A judge’s decision not to recuse is a “procedural ruling” within the scope of §352(b)(1)(A)(ii). See *Report* at 146.

Complainant appealed the district judge’s decision. The court of appeals held that complainant is not entitled to proceed *in forma pauperis* because the appeal is frivolous. Complainant apparently sees the 1980 Act as another means of obtaining review of the district judge’s decision. It is not. The Judicial Council is an administrative rather than a judicial body.