

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

September 21, 2010

FRANK H. EASTERBROOK
Chief Judge

No. 07-10-90057

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant filed a bankruptcy proceeding, which the judge dismissed on the ground that complainant had not demonstrated compliance with the statutory credit-counseling condition. Complainant had asserted that the required counseling had occurred but did not provide proof; rules gave complainant 15 days to supply the required evidence, and when that time passed without action the judge dismissed the proceeding. Complainant believes that this decision constitutes misconduct.

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. If the bankruptcy judge erred by not giving complainant more time to comply (complainant has tendered a document showing completion of a credit-counseling course approximately ten weeks after the judge dismissed the bankruptcy proceeding)—or if complainant believes that the judge should have allowed the case to proceed despite noncompliance—the appropriate forum for such an argument was an appeal to the district court. The time for an appeal has long passed, and the 1980 Act is not a substitute form of appellate review.