

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

December 8, 2010

FRANK H. EASTERBROOK
Chief Judge

Nos. 07-10-90075 and -90076

IN RE COMPLAINT AGAINST TWO JUDICIAL OFFICERS

MEMORANDUM

Complainant has been a frequent litigant in state and federal court. In 2004 a federal district judge entered an injunction curtailing further litigation without judicial leave. That decision was affirmed on appeal. Complainant continued to tender documents seeking to initiate new suits, but the judge did not authorize their filing. The current complaint asserts that the judge must be biased, malicious, lazy, incompetent, or all four, and thus suffers from a disability.

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. Although complainant asserts that she believes that the judge is disabled, rather than that the judge has engaged in misconduct in office, both the genesis of the complaint and the focus of its principal allegations concern the injunction and its administration, plus the adverse decisions in the cases that preceded the injunction. Complainant was entitled to, and received, appellate review of the injunction’s propriety. The 1980 Act cannot be used to review the implementation of an injunction that curtails frivolous litigation. Nor can it be used to review decisions that concern other litigants (complainant asserts that several of the subject judge’s decisions are erroneous and thus must reveal bias or incompetence). The Judicial Council is an administrative rather than a judicial body; that’s the point of §352(b)(1)(A)(ii).

Complainant believes that the judge has forged documents but offers no evidence of this. Complainant also believes that statements in one or more of the judge’s opinions defame her. The content of an opinion is covered by §352(b)(1)(A)(ii) as well as an absolute privilege. Moreover, complainant’s belief that the judge committed misconduct

in posting the opinions in a way that search engines such as Google could index them, and thus spread the defamatory statements, does not raise any inference of misconduct. All federal courts make their opinions freely available in electronic format.

Several of the allegations concern the subject judge's extrajudicial behavior. Complainant asserts, for example, that the judge "use[d] identity thieves to sexually assault" the judge assigned to a suit she filed in a different district. How a judge could "use identity thieves" to perform a sexual assault is unexplained. Nor does complainant offer any evidence for the assertion that the judge committed such a serious crime. Complainant also asserts that the judge "collaborated with my nasty next-door neighbors to set out a trap for [my] cats"; again the complaint offers no evidence of this asserted collaboration, or any explanation why the judge would want to trap or injure a litigant's cats. The complaint's assertion that the judge has strongarmed Google into giving undue prominence to his opinions concerning complainant is both fantastic and not supported by any concrete factual allegations concerning how the judge changed the rankings of Google's algorithms.

The complaint is filled with other, similar, assertions that need not be analyzed separately. Medical professionals have concluded that complainant is mentally ill. She disputes this diagnosis, which has been the genesis of several lawsuits, but the Judicial Council is not a forum for a collateral attack on medical findings. To the extent the complaint rests on a belief that the judge is engaged in extra-judicial persecution of complainant, it is dismissed under §352(b)(1)(A)(iii) as both frivolous and unsupported by any concrete facts.

Finally, the complaint names a second judge who has never played a role in any of complainant's litigation. The complaint does not set out any actions taken by this judge that suggest either misconduct or disability. Complainant's disagreement with statements the second judge made when running for state office is well outside the scope of the 1980 Act. The complaint against the second judge is dismissed under §352(b)(1)(A)(i) because it does not allege misconduct or disability.