

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

November 22, 2011

FRANK H. EASTERBROOK
Chief Judge

No. 07-11-90071

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant is the plaintiff in pending civil litigation. The district judge assigned to the suit, after concluding that complainant was becoming increasingly agitated and argumentative, grew concerned that he might pose a hazard to other persons in the courthouse. The judge referred the matter to the district court's executive committee which, after receiving a report from the Marshals Service, entered an order providing that complainant will be accompanied by a representative of the Marshals Service while in the courthouse. The current complaint, naming as respondent the chief judge of the district court, asserts that this order should be set aside, or at least that he should be allowed discovery into the basis of the order, and a better statement of reasons.

Complainant apparently sees the Judicial Council as a forum for appellate review of the district court's decision. It is not. The Council's function under the Judicial Conduct and Disability Act of 1980 is to decide whether a federal judicial officer has engaged in misconduct (or is disabled), not to decide whether a particular decision is wise. An error of judgment differs from misconduct in office. As I wrote in an earlier proceeding (No. 07-7-352-39) that questioned a similar order by the same district court:

It is not judicial misconduct to inform law-enforcement personnel about [events] that could be construed (or, as complainant would have it, misconstrued) as threatening. Federal judges (and the families of judges) have been assassinated by disgruntled litigants, and investigating the [perpetrators] of questionable [behavior] is one appropriate task of the Marshal Service.

And a related decision (No. 07-7-352-49) repeats this idea:

Judges do not commit misconduct by taking steps that enhance a courthouse's security while respecting everyone's freedom. The order entered in this case may be unwelcome to complainant, but it does not deny him access to the courthouse and does not affect his freedom to do as he pleases when away from the courthouse.

This complaint is therefore dismissed, because it does not allege misconduct.