

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

August 3, 2012

FRANK H. EASTERBROOK  
Chief Judge

Nos. 07-12-90055 to -90058

IN RE COMPLAINT AGAINST FOUR JUDICIAL OFFICERS

MEMORANDUM

A history of frivolous suits and appeals has disabled complainant, a state prisoner, from litigating *in forma pauperis* unless his suit concerns an imminent physical threat. 28 U.S.C. §1915(g). He therefore must prepay the required filing fees in the district court and the court of appeals. Despite this requirement, complainant goes on filing suits, which district courts dismiss for non-payment; he then files appeals or seeks writs of mandamus. The court of appeals dismisses these appeals and motions, because complainant never pays the required fees.

Complainant contends that four appellate judges whose names appear on one or more of these dismissal orders (and later orders denying complainant's requests for rehearing or other relief) have committed misconduct by violating their duties under the Code of Judicial Conduct. As complainant sees things, he has called to the attention of the judiciary wrongs and errors by the persons complainant names as defendants in his suits, and the judges are duty-bound to take appropriate action.

That is true enough—but what action is “appropriate” depends on whether complainant has satisfied the conditions to suit, such as paying fees required by law. A judge has a duty to enforce §1915(g) no less than a duty to rule correctly in cases properly before the court for decision. Complainant has not done what is necessary to put his suits before the court for decision on the merits.

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. Procedural rulings that the judges have made are the only basis for this complaint.

One of the named judges is deceased. The complaint against him is dismissed under §352(b)(1)(A)(i), because the 1980 Act applies only to current judicial officers. The complaint against the other three judges is dismissed under §352(b)(1)(A)(ii).