

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

September 4, 2012

FRANK H. EASTERBROOK
Chief Judge

No. 07-12-90063

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant is the plaintiff or petitioner in several pending actions. He believes that guards at the prison where he is confined have intentionally exposed him to danger and that the judge's delay in ruling on motions he has filed has led the guards to think that they can get away with their deeds. He asks that "This Board Prompt [the district judge] to Rule on My Pleadings one way or The Other".

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. A contention that a judge has delayed making a decision is covered by §352(b)(1)(A)(ii), see *Report* at 146, because choices about how to allocate time are procedural rulings. The *Report* adds that a judge's general inability or unwillingness to discharge judicial business promptly is outside §352(b)(1)(A)(ii), but this complaint concerns delay in complainant's suits only.

Although I appreciate complainant's frustration at the delay that sometimes seems endemic in judicial proceedings, a wait of five or six months (which is what complainant alleges) is common. The docket sheets, and the complaint itself, show that during these months the judge has held at least one hearing and made several rulings,

though he has not dealt with all pending motions. Many litigants believe that their cases should come ahead of others' suits, but a judge obviously cannot put everyone ahead of everybody else. The judge must decide whose situation really is most urgent.

The court of appeals, on petition for mandamus, can decide whether delay has reached an unacceptable length. The Judicial Council does not superintend the conduct of pending litigation.