

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

January 3, 2013

FRANK H. EASTERBROOK
Chief Judge

No. 07-13-90001

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant is the defendant in a pending criminal prosecution. He contends that the district judge committed misconduct by refusing to allow him to speak during a hearing and by threatening him with a higher sentence if he did not plead guilty.

Approximately 40 days ago, complainant contended that the magistrate judge assigned to his case had committed misconduct. I dismissed that complaint under 28 U.S.C. §352(b)(1)(A)(ii), which provides that the Judicial Council will not review any of a judge's procedural rulings. See also Rule 11(c)(1)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. The current complaint likewise seeks review of a procedural ruling—the judge's decision that complainant, who is represented by counsel, lacks a right to address the court directly. Yet the complaint does not mention the statute or my prior decision (No. 07-12-90085).

That decision informs complainant that a judge's acts can be reviewed on appeal, and that a complaint under the Judicial Conduct and Disability Act of 1980 cannot be used to obtain immediate review of a procedural step that has yet to produce a final order. What is more, the judge appears to have done complainant a favor by telling him that a guilty plea may lead to a lower sentence; the Sentencing Guidelines provide reductions of two or three levels for accepting responsibility. Providing information about the effect of a guilty plea on likely sentences is not a forbidden "threat." See *United States v. Klotz*, 843 F.2d 707 (7th Cir. 1991). Nor is a judge obliged to allow a

defendant represented by counsel to present his own argument; there is no right to dual representation.

Any further complaint that does not make a serious effort to explain how it is compatible with §352 will be dismissed summarily, and I will direct complainant to show cause why the Council should not take steps to curtail his apparently frivolous invocations of the 1980 Act. See Rule 10(a) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.