

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

February 6, 2013

FRANK H. EASTERBROOK
Chief Judge

No. 07-13-90009

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Less than a month ago, complainant initiated a federal civil suit. It was referred to a magistrate judge for pretrial management. Complainant accuses the magistrate judge of misconduct for not getting the suit resolved immediately.

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. Allegations of delay in a single suit are covered by §352(b)(1)(A)(ii). See Rule 3(h)(3)(A) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

Complainant also asserts that the magistrate judge is biased. The only basis for this assertion, however, is his decision not to assist complainant in obtaining counsel. This allegation, too, is covered by §352(b)(1)(A)(ii). See Rule 3(h)(3)(A).

A litigant dissatisfied with a magistrate judge’s recommendations (which is all they are here; the parties have not consented to final decision by the magistrate judge under 28 U.S.C. §636(c)) can ask the district judge to act. If the district judge agrees with the magistrate judge, and complainant ultimately loses the suit, she can appeal. But appeal

must wait until the district court's final decision. The 1980 Act does not authorize the Judicial Council to superintend the management of pending litigation.