

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

February 11, 2013

FRANK H. EASTERBROOK
Chief Judge

No. 07-13-90010

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant was the plaintiff in a civil suit recently dismissed by a district court. The judge concluded that complainant had failed to supply information that the Marshals Service needed to serve the defendants with process, and the court dismissed the suit (without prejudice) for failure to prosecute. Complainant maintains that this constituted misconduct.

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. If the district judge erred in thinking that complainant failed to provide essential information, she could have drawn this to the judge’s attention by a motion to reconsider, or she could have appealed. The 1980 Act does not authorize the Judicial Council to superintend the management of litigation.

Complainant asserts that the judge must be biased against her. But the adverse decision is the only “evidence” of bias. Yet adverse decisions do not show bias. See *Liteky v. United States*, 510 U.S. 540 (1994). The subject judge did complainant a favor by dismissing without prejudice. This means that she can file another suit to pursue the same claim. (The statute of limitations has not expired.)