

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

March 5, 2013

FRANK H. EASTERBROOK
Chief Judge

No. 07-13-90013

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant filed so many frivolous suits that in 1997 the court of appeals entered an order providing that all courts within the circuit would return future papers unfiled unless complainant paid accumulated fees and costs. More than 15 years have passed, and the order remains in force. Complainant contends that a magistrate judge violated the 1997 order by dismissing a suit that began in state court and was removed by the defendant under the diversity jurisdiction. He maintains that the magistrate judge should have remanded the case to state court.

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. The decision to retain rather than remand the suit is a procedural ruling.

As complainant sees things, by dismissing his suit the magistrate judge violated the order the court of appeals entered in 1997. Yet if, as complainant believes, the judge had no power whatever, an order remanding to state court would have been equally inappropriate. The difficulty stems from the fact that the case reached federal court on the initiative of the defendant, which was not affected by the 1997 order. The magistrate

judge's decision about how to bring an end to a case properly in court, but unable to be prosecuted given the 1997 order, cannot be contested by a complaint under the 1980 Act. And complainant's failure to pay what he owes prevents a contest in the court of appeals as well.

Complainant maintains that the lawyer who removed the case to federal court also committed misconduct. The 1980 Act covers only federal judicial officers. The complaint concerning counsel is dismissed under §352(b)(1)(A)(i) as outside the scope of the Act.