

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

March 14, 2013

FRANK H. EASTERBROOK
Chief Judge

No. 07-13-90015

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant is the subject of orders that restrict his litigation. He contends that a district judge who entered one of these orders committed 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. Complainant believes that the order should not have been entered. That contention could have been raised on appeal. The 1980 Act does not permit the Judicial Council to address the merits of judicial decisions. The statute cannot be evaded by a general assertion of bias; it applies to a judge’s decision that he is entitled to sit. See Rule 3(h)(3)(A) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. What is more, the only foundation for the claim is the adverse decision, which does not support an inference of bias. See *Liteky v. United States*, 510 U.S. 540 (1994).

The original litigation-control order affecting complainant was entered, by the subject district judge, in 1997. Complainant believes that the judge erred in believing him covered by the Prison Litigation Reform Act. (The 1997 order concludes that complainant has “struck out” and thus lost the privilege of litigating *in forma pauperis*.)

See 28 U.S.C. §1915(g). He contends that he was not a prisoner at the time and that the PLRA therefore did not apply.) The district judge's 1997 order is no longer important. It has been superseded by an order entered in 1999 by the court of appeals and forbidding clerks throughout the circuit from accepting papers in civil litigation until complainant pays accumulated sanctions. That order did not depend on the PLRA. After complainant (who is now in prison) commenced a campaign of frivolous collateral attacks, the court of appeals entered an order in 2010 blocking even further collateral litigation until he pays monetary sanctions. The 2010 order, not the 1997 or 1999 order, is what limits his litigation today.

That complainant has chosen to file separate complaints under the 1980 Act contending that the 1997 and 1999 orders constitute misconduct suggests that he is trying to move his campaign to a new forum, in which there is not yet any judicial order limiting his access. If complainant files any additional complaint without making a serious effort to show how it is compatible with §352(b)(1)(A)(ii), I will dismiss it summarily and issue an order directing him to show cause why the Judicial Council should not curtail his apparently frivolous use of the 1980 Act's processes. See Rule 10(a) of the Rules for Judicial-Conduct and Judicial-Disability Complaints.