

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

April 1, 2013

FRANK H. EASTERBROOK
Chief Judge

No. 07-13-90018

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant, a state prisoner, asked for federal relief under 28 U.S.C. §2254. The district judge denied his petition, and complainant accuses the judge of failing to read the state court's decision before acting.

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 remedy for an incorrect decision is by appeal. (Complainant did appeal. The court of appeals declined to issue a certificate of appealability, which meant that the appeal was dismissed.)

A district judge's failure to read documents essential to forming an opinion would be misconduct outside the scope of §352(b)(1)(A)(ii). But complainant offers no evidence that the judge failed to do his job. In lieu of evidence he baldly asserts that the judge did not read the documents. Yet the judge wrote an opinion demonstrating familiarity with the state court's decision and complainant's substantive arguments—which the judge found wanting, as did the court of appeals. The Judicial Council, an administrative body, is not an alternative forum for the review of these decisions.