

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

April 12, 2013

FRANK H. EASTERBROOK  
Chief Judge

No. 07-13-90022

IN RE COMPLAINT AGAINST A FORMER JUDICIAL OFFICER

MEMORANDUM

Complainant asserts that a district judge decided a case incorrectly during the 1990s, and that this constitutes misconduct.

That judge died many years ago. The Judicial Conduct and Disability Act of 1980 applies only to judicial officers, 28 U.S.C. §351(d)(1), and a deceased person is not a “judge” under the statute. The complaint therefore is dismissed as outside the scope of the Act. 28 U.S.C. §352(b)(1)(A)(i).

Moreover, 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, so it would be dismissed even if the former judge were still living.

Last year complainant filed a complaint (No. 07-12-90030) concerning a living judge. I dismissed it on the authority of §352(b)(1)(A)(ii), so complainant knows about that provision. Yet the current complaint ignores §352(b)(1)(A)(ii) and the rest of the governing statute. Any further complaint that does not make a serious effort to show how it is compatible with the statute and the implementing regulations will be

dismissed summarily, and I will order complainant to show cause why the Judicial Council should not curtail his apparently frivolous invocations of the 1980 Act.