

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

June 10, 2013

FRANK H. EASTERBROOK
Chief Judge

Nos. 07-13-90035 to 90037

IN RE COMPLAINT AGAINST THREE JUDICIAL OFFICERS

MEMORANDUM

Complainant was convicted of violating the Racketeer Influenced and Corrupt Organizations Act and other statutes. His conviction was affirmed, and after a remand for resentencing his sentence was affirmed on a second appeal. Complainant accuses the three judges who decided the second appeal of misconduct, contending that they affirmed an illegal sentence.

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 Supreme Court, not the Judicial Council, is the right forum for a contention that an appellate panel erred.

What is more, two of the three judges who served on the appellate panel—whose decision was rendered almost 20 years ago—are no longer living. The 1980 Act 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 against these two former judges therefore is dismissed as outside the scope of the Act. 28 U.S.C. §352(b)(1)(A)(i).

This is complainant's third invocation of the 1980 Act in less than a year. One of the earlier complaints (No. 07-13-90022), against a deceased district judge, was dismissed under §352(b)(1)(A)(i). (The current complaint appears to be addressed particularly to the conduct of that judge, who imposed the sentence, not to the conduct of the judges who heard the appeal—and this even though I told complainant in No. 07-13-90022 that the 1980 Act does not cover deceased judges.). The other (No. 07-12-90030), against a circuit judge, was dismissed under §352(b)(1)(A)(ii).

In dismissing No. 07-13-90022, I told complainant that any further complaint that did not make a serious effort to show how it is compatible with §352(b)(1)(A) would be dismissed summarily, and that I would order him to show cause why the Council should not take steps to curtail his abuse of the 1980 Act's processes. See Rule 10(a) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. The current complaint, like its predecessors, ignores §§ 351 and 352. The pace of complaints seems to be increasing. I therefore dismiss the current complaint and order complainant to show cause why the Council should not bring a halt to his campaign of frivolous filings.