

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

August 5, 2013

FRANK H. EASTERBROOK
Chief Judge

No. 07-13-90051

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant, a state prisoner, is seeking collateral relief from his conviction. He also has filed several civil suits. He contends that the district judge assigned to his litigation has committed misconduct by not issuing a preliminary injunction, not ruling as promptly as he desires, and recruiting a lawyer who will not do what he wants.

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.

Indeed, the allegations of this complaint overlap those of another (No. 07-12-90063) filed by complainant last year against the same district judge. When dismissing that complaint, I informed complainant that §352(b)(1)(A)(ii) covers both the substance of judicial decisions and contentions that a judge has taken too long to render a decision. Yet the current complaint does not mention either §352(b)(1)(A)(ii) or my decision. Complainant asserts that he encountered delay in obtaining a copy of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. That is no excuse for ignoring the statute and my decision, which told complainant directly what sorts of contentions are outside the scope of the 1980 Act.

Complainant adds an assertion that the district judge must be biased against him. Section 353(b)(1)(A)(ii) applies to claims of this kind too. See Rule 3(h)(3)(A) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. The court of appeals, not the Judicial Council, is the right forum for contentions that a district judge should not resolve a particular lawsuit. What is more, a judge's adverse decisions—the only basis for this charge—do not show bias. See *Liteky v. United States*, 510 U.S. 540 (1994). Every lawsuit—indeed, every motion within a suit—has a loser as well as a winner. The loser's belief that he should have prevailed may furnish an argument for appeal but does not suggest that the judge is acting improperly by resolving the suit at all.

Any further complaint that does not make a serious effort to show how it is compatible with §352(b)(1)(A)(ii) will be dismissed summarily, and I will direct complainant to show cause why the Judicial Council should not curtail his misuse of the 1980 Act. See Rule 10(a) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.