

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

August 6, 2013

FRANK H. EASTERBROOK
Chief Judge

No. 07-13-90052

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant, a state prisoner, contends that the district judge who denied his petition for relief under 28 U.S.C. §2241 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. The complaint arises from the adverse decision. That is a matter for appeal (one is pending), not for the Judicial Council, an administrative body.

Complainant asserts that the judge must be biased against him. But the adverse decision is the only basis on which complainant infers bias. Yet every suit has at least one loser, who often believes that he should have prevailed. Adverse decisions are grounds for appeals, not for claims of bias. See *Liteky v. United States*, 510 U.S. 540 (1994). That the court of appeals reversed the district judge at an earlier stage of complainant’s litigation does not show bias; instead it shows disagreement within the judiciary about what the law requires, which is unrelated to bias. Moreover, a judge’s decision that he is not disqualified is itself a procedural ruling for the purpose of §352(b)(1)(A)(ii). See Rule 3(h)(3)(A) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. Review is in the court of appeals, not the Judicial Council.