

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

May 10, 2022

Chief Judge Diane S. Sykes

No. 07-22-90029

IN RE COMPLAINT AGAINST A JUDGE

MEMORANDUM AND ORDER

The complainant filed a misconduct complaint against the judge who presided over her criminal case and a subsequent habeas petition. She challenges the judge's sentencing decision and rulings in her habeas case. She primarily complains about having to serve time in a state facility in connection with concurrent federal and state sentences and also of being deprived of mental-health and drug-abuse counseling while in state custody.

The complainant has been told in multiple judicial decisions that the service of her concurrent federal and state sentences in a state, rather than federal, prison does not constitute a violation of any federal right. And although the judge recommended treatment and counseling for the complainant during sentencing, the recommendation was not an enforceable aspect of the complainant's sentence; more to the point, her allegations on this subject are directly related to the merits of the criminal case. In short, her misconduct complaint merely repackages certain arguments she raised and lost in court. Allegations directly related to the merits of the judge's decisions are not proper grounds for a misconduct complaint. 28 U.S.C. § 352(b)(1)(A)(ii). "Any allegation that calls into question the correctness of an official action of a judge ... is merits related." STEPHEN BREYER ET AL., IMPLEMENTATION OF THE JUDICIAL CONDUCT AND DISABILITY ACT OF 1980: A REPORT TO THE CHIEF JUSTICE 145 (2006).

For the foregoing reason, the complaint is dismissed pursuant to § 352(b)(1)(A)(ii). The complainant may petition the Judicial Council of the Seventh Circuit for review of this order in accordance with Rule 18(b) of the *Rules for Judicial-Conduct and Judicial-Disability Proceedings*. 28 U.S.C. § 352(c); see RULES FOR JUD.-CONDUCT & JUD.-DISABILITY PROC. 11(g)(3). A petition for review must be filed in the clerk's office of the United States Court of Appeals for the Seventh Circuit not later than 42 days of the date of this order.