

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

June 28, 2022

Chief Judge Diane S. Sykes

No. 07-22-90037

IN RE COMPLAINT AGAINST A JUDGE

MEMORANDUM AND ORDER

This is the complainant's second complaint in two months against the same judge. In the first complaint, the complainant alleged that the judge was unable to perform the duties of his office due to physical and mental disability and sought to have his cases reassigned. During my review of the first complaint, the judge announced his retirement from the bench effective September 1, 2022, and all of his cases were reassigned to other judges effective immediately. I concluded that the act of resignation, coupled with the reassignment of his cases, constituted intervening events that rendered the complaint moot. 28 U.S.C. § 352(b)(2) (explaining that the chief judge may conclude the proceeding if "action on the complaint is no longer necessary because of intervening events"); RULES FOR JUD.-CONDUCT & JUD.-DISABILITY PROC. 11(e) ("The chief judge may conclude a complaint proceeding in whole or in part upon determining that intervening events render some or all of the allegations moot")

The complainant now makes the same factual allegations as in the first complaint but requests different relief, including an investigation and an order vacating the judge's rulings. Nothing in this second complaint requires further investigation or inquiry. The judge's cases have been reassigned. He is no longer performing judicial work and will retire on September 1. To the extent that the complainant questions the judge's rulings in other parties' cases and asks for an order vacating those decisions, his complaint is both merits related and improper. 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" and must be dismissed. STEPHEN BREYER ET AL., IMPLEMENTATION OF THE JUDICIAL CONDUCT AND DISABILITY ACT OF 1980: A REPORT TO THE CHIEF JUSTICE 145 (2006). Any errors in the judge's prior rulings can be raised with the newly assigned judge or on appeal by the parties to the case.

For the foregoing reasons, 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.