

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

August 4, 2008

FRANK H. EASTERBROOK
Chief Judge

No. 07-08-90067

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant is a federal prisoner. He contends that the district judge should have dismissed the indictment and handled the litigation differently in many ways.

This is at least the second complaint under the Judicial Conduct and Disability Act of 1980 contesting the district judge's handling of this litigation. When dismissing the first in December 2006, I informed complainant that a judicial-misconduct complaint is not a means to obtain review of the judge's rulings. Any complaint that is "directly related to the merits of a decision or procedural ruling" must be dismissed. 28 U.S.C. §351(b)(1)(A)(ii). "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).

Since December 2006, the court of appeals has affirmed complainant's conviction and sentence. Complainant has submitted a lengthy document narrating his grievances. All are "directly related to the merits of a decision or procedural ruling". Indeed, this complaint appears to reflect a disagreement between complainant and his appellate lawyer about what arguments should have been raised on appeal; the arguments in the current complaint were omitted from the appellate brief, which contested only the sentence. Complainant then discharged his lawyer and filed a *pro se* petition for rehearing en banc that the court of appeals denied. The current complaint, which repeats (and adds to) the arguments presented in that petition, does not make any effort to deal with §351(b)(1)(A)(ii) or address the explanation that I provided in 2006. This complaint therefore is dismissed. Any future complaint that does not make a serious effort to show how its allegations are compatible with the 1980 Act will be dismissed summarily.

The complaint asserts toward its end that the district judge received \$50,000 from a lobbying group to ensure complainant's conviction. This allegation of bribery is not affected by §351(b)(1)(A)(ii) but is covered by §351(b)(1)(A)(iii), which requires the chief judge to dismiss any allegation that is "lacking sufficient evidence to raise an inference that misconduct has occurred". Complainant does not describe any evidence that would support his belief. He refers to a letter supposedly sent by a third party in late 2005, but the letter is not attached to the complaint, nor is any of the supposed letter's reasoning or evidence provided. (Complainant asserts that disclosure of the letter would put his life, and that of the letter's author, in danger, but he does not explain why.) The December 2006 complaint also alleged bribery, and with an equal lack of evidence. Irresponsible and unfounded allegations do not call for analysis. My December 2006 decision informed complainant about the need for evidence, but the current complainant ignores §351(b)(1)(A)(iii) just as it ignores §351(b)(1)(A)(ii).