

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

November 25, 2008

FRANK H. EASTERBROOK
Chief Judge

No. 07-08-90109

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant, the defendant in a pending criminal prosecution, believes that the district judge who is handling the case has demonstrated unfitness for office by denying many of his motions, by ordering complainant to undergo a psychiatric examination, and by failing to give him legal advice.

Complainant has insisted on representing himself in the prosecution; he has no entitlement to legal advice from the judge. (That's one reason why judges try to dissuade litigants from bypassing the assistance of counsel.) Failure to furnish advice is not misconduct in office.

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). The allegations of this complaint fit that description. "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). If complainant believes that the judge's orders are erroneous, he may (if convicted) present his arguments to the court of appeals on appeal from the final decision. The Judicial Council, an administrative body, does not review rulings in the conduct of litigation. (Complainant's many interlocutory appeals have been dismissed, or are in the process of being dismissed; appeal must wait for the conclusion of the case in the district court. A litigant's inability to take interlocutory appeals does not permit him to make the same arguments through complaints under the 1980 Act.)