

THE JUDICIAL COUNCIL OF THE SEVENTH CIRCUIT

219 South Dearborn Street
Chicago, Illinois 60604

March 5, 2008

FRANK H. EASTERBROOK
Chief Judge

No. 08-7-352-10

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant, a prisoner who is representing himself in civil litigation, contends that the district judge assigned to the suit has committed misconduct by exhibiting racial bias, conspiring with the defendants, and defeating the district court's system for random assignment of newly filed cases.

These are serious charges, for which complainant provides not a shred of evidence. The complaint appears to arise from frustration that the judge has declined to recruit a lawyer to assist the complainant and has denied complainant's motion that the prison system be ordered to pay for preparing, duplicating, and serving papers. (Complainant is a frequent litigant and has overdrawn the allowance his prison makes for such matters.) These and other rulings cannot be contested under the Judicial Conduct and Disability Act of 1980. 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). "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). Likewise the district judge's decision to certify that the current suit is related to others over which he presided, and therefore should be assigned to him rather than passed to a new judge at random, also concerns a procedural ruling. Relief from adverse rulings, should they be erroneous, is by appeal to the court of appeals from a final decision, not by a petition to the Judicial Council under the 1980 Act.

As for the charge of bias and conspiracy: The complaint is along the lines of: "I should be winning; instead the rulings are going against me; thus the judge must be biased or in cahoots with the other side." That's not a sensible inference; it does not take bias or collusion to explain the fact that one side or the other is favored by every ruling. This aspect of the complaint is dismissed because it lacks "sufficient evidence to raise an inference that misconduct has occurred". 28 U.S.C. §352(b)(1)(A)(iii).