

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

March 27, 2008

FRANK H. EASTERBROOK  
Chief Judge

No. 08-7-352-13

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant is in federal prison for drug offenses. He believes that the district court erred in determining the kind and quantity of drugs involved, and that his sentence is too high. These arguments have been rejected in the district court and on appeal, but complainant continues to protest.

One of his recent arguments is that he is a “vessel” and that the district court lacks admiralty jurisdiction over him. He also contends that he is a stateless person and that this prevents any conviction. One more example: he maintains that he has not agreed by contract to the exercise of jurisdiction, and that the district judge is in breach of contract. These arguments have proved unavailing, and appeals have been dismissed as frivolous (and petitions for mandamus have been denied).

Now complainant asserts that the district judge must be biased against him. The only ground for suspecting bias, however, is the adverse rulings. 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). This complaint fits that description. The limitations of §352(b)(1)(A)(ii) cannot be evaded by accusing the judge of bias, because whether recusal is required is itself a judicial decision within the scope of this subsection. A judge’s decision to continue presiding is “directly related to the merits of a ... procedural ruling” unless the judge knows that he is disqualified. See *id.* at 146. The remedy for a judge’s erroneous decision that recusal is unnecessary lies in the court of appeals, not the Judicial Council.

Judicial bias is covered by the 1980 Act only when it is distinct from a litigant’s disagreement with the merits of the judge’s rulings. Any complaint 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" is deficient and would be dismissed because it lacks "sufficient evidence to raise an inference that misconduct has occurred", 28 U.S.C. §352(b)(1)(A)(iii), independent of the problem under subsection (b)(1)(A)(ii).