

## JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

---

JCP No. 08-24-90045

---

In re Complaint of John Doe\*

---

This is a judicial complaint filed by a citizen against the district judge who imposed sentence in his son's criminal case after the son pleaded guilty.

The judicial complaint alleges that at the defendant's sentencing hearing, the judge "went against all of the guidelines of [the defendant's] plea deal [and] totally went against all of the code of ethics." The complaint alleges that the judge "abused his authority," broke the law, and "committed a crime" in failing to "honor the plea deal contract." The complainant alleges that the judge gave his son "more time than a murderer would get" and "it's unheard of and . . . not acceptable."

The record in the underlying criminal case shows that the defendant pleaded guilty to bank robbery and to brandishing or using a firearm during and in relation to a crime of violence. In the written plea agreement, the defendant stated that he understood that the robbery count carried a maximum sentence of 25 years, and that the firearm count carried a mandatory consecutive minimum sentence of 84 months and a maximum sentence of life in prison. The plea agreement also provided that the parties agreed that "the defendant shall receive a sentence of no less than 154 months." The presentence report recommended an advisory sentencing range of 78 to 97 months on the robbery count, and a minimum consecutive sentence on the

---

\*Under Rule 24(a) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, the names of the complainant and the subject judge are not disclosed. Citations or references herein to a "Rule" refer to these Rules.

firearm count of 84 months. The government filed a motion for an upward variance and departure to a total sentence of 270 months alleging the defendant's conduct was "unusually heinous, cruel, brutal, and degrading to the victims." The judge accepted the plea agreement. After considering the statutory sentencing factors, the judge sentenced the defendant to 170 months on the first count and to a consecutive 100 months on the second count.

The judicial complaint challenges the correctness of the judge's sentencing decision, and those allegations must be dismissed as "directly related to the merits of a decision or procedural ruling." 28 U.S.C. § 352(b)(1)(A)(ii); *see* Rule 4(b)(1) (misconduct does not include "an allegation that calls into question the correctness of a judge's ruling"). The complaint's allegations that the judge violated the code of ethics and abused his authority by failing to honor the plea agreement "lack any factual foundation or are conclusively refuted by objective evidence." 28 U.S.C. § 352(b)(1)(B); *see* Rule 11(c)(1)(D). The record shows that the sentence imposed by the judge was within the statutory ranges specified in the plea agreement and did not violate the plea agreement's provision that the defendant be sentenced to "no less than 154 months."

For these reasons, the judicial complaint is dismissed.

/s/ Steven M. Colloton  
Chief Judge

Filed: September 19, 2024

---