

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-18-90041

In re Complaint of John Doe¹

This is a judicial complaint filed by an inmate against the United States district judge who presided over the inmate's criminal case. After the inmate pleaded guilty to the charges against him, he subsequently moved to withdraw his guilty plea. The district judge denied the motion and sentenced the inmate to 30 years' imprisonment. On appeal, the inmate challenged the district court's denial of the motion to withdraw his guilty plea, but this court affirmed.

The judicial complaint alleges that the district judge (1) failed to consider at sentencing the inmate's claims that the Assistant United States Attorney encouraged the inmate to lie about his codefendant; (2) failed to inquire about alleged obvious fabrication of the inmate's proffer interview submitted by the government; (3) failed to rule on the inmate's claim in an affidavit that his "plea counsel had represented a government witness simultaneously to [him]"; (4) credited at sentencing a witness's alleged "perjured" testimony over his and other witnesses' testimony; (5) failed to address a letter his defense counsel presented at sentencing from a government witness claiming that the Assistant United States Attorney was ignoring the witness's assertions of the inmate's innocence and attempting to coerce the witness into changing his testimony; (6) disregarded exculpatory evidence at sentencing; (7)

¹Under Rule 4(f)(1) of the Rules Governing Complaints of Judicial Misconduct and Disability of the Eighth Circuit, the names of the complainant and the judicial officer complained against are to remain confidential, except in special circumstances not here present.

applied several sentencing enhancements that the inmate contends were inapplicable; and (8) imposed an “unheard of” sentence of 30 years for the offense conduct.

The inmate’s allegations against the district judge are “directly related to the merits of a decision or procedural ruling” and therefore must be dismissed. 28 U.S.C. § 352(b)(1)(A)(ii); *accord* J.C.U.S. Rule 11(c)(1)(B); *see also* J.C.U.S. Rule 3(h)(3)(A) (“An allegation that calls into question the correctness of a judge’s ruling . . . without more, is merits-related.”). Accordingly, the allegations must be dismissed.

The complaint is dismissed.

August 13th, 2018



Lavenski R. Smith, Chief Judge
United States Court of Appeals
for the Eighth Circuit