

## JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-22-90040

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In re Complaint of John Doe<sup>1</sup>

This is a judicial complaint filed by a criminal defendant (“complainant”) against the United States district judge who sentenced the complainant.

The complainant alleges that the district judge “is biased and has ill intent against [the complainant]. During [the complainant’s] sentencing, [the district judge] said to [the complainant], [“]N\*\*\*er or Negro, you better be glad that this is all the time I can give you.[”] Then [the district judge] said, [“H]aven’t you ever did anything for your country?["]”] The complainant further alleges, “I asked [the district judge] to repeat himself and advised . . . what I was there for, [b]ut none of this seems to be in my hearing transcripts, so I’m writing to express my concern that the transcribed transcripts for this case are fraudulent.” Finally, the complainant alleges that the district judge “is also biased because [the complainant] would not comply with the United States Attorney giving information on a guy that goes by the street name Rocky!”

I have reviewed the record. *See* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(b). At sentencing, the district judge first addressed the complainant’s motion for leave to withdraw the guilty plea. The district judge’s “understanding [was] that [the

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<sup>1</sup>Under 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.

complainant] [was] dissatisf[ied] [with] the amount of time that . . . the Sentencing Guidelines are recommending.” The district judge reviewed with the complainant what he had previously signed. When the complainant told the district judge that he signed the plea agreement “because [his] attorney told [him] to sign it,” the district judge stated, “I asked you did you want to plead guilty; did you understand that these possibilities existed, and you said ‘yes.’” The district judge denied the complainant’s motion to withdraw. Thereafter, the district judge sentenced the complainant as an armed career criminal. On appeal, the complainant argued *only* that the district judge erred in sentencing him as an armed career criminal. At no time did the complainant allege that the district judge showed bias against him at the sentencing hearing.

The complainant has provided no evidence to substantiate his claims of the district judge’s alleged biased comments or a fraudulent sentencing transcript. Nor is there any other evidence in the record to substantiate the complainant’s allegations. Therefore, the judicial complaint’s allegations must be dismissed as “lacking sufficient evidence to raise an inference that misconduct has occurred.” 28 U.S.C. § 352(b)(1)(A)(iii); *accord* J.C.U.S. Rule 11(c)(1)(C), (D).

Accordingly, the judicial complaint is dismissed.

July 20, 2022

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