

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

---

JCP No. 08-17-90086

---

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

This is a judicial complaint filed by a criminal defendant against the district judge that sentenced him. The sentencing transcript reflects that the district judge sentenced the defendant to “240 months on every count that [he] w[as] convicted of, all 35 counts, to run concurrent with one another.” Consistent with this oral pronouncement, the judgment also reflects a 240-month sentence.

Contrary to the record, the complainant alleges that the district judge orally sentenced him to 262 months’ imprisonment and that it was not until the written judgment was entered eight days later that the sentence was changed to 240 months’ imprisonment. He alleges that no record exists of when or why the 262-month sentence was amended or what happened to the transcript or other documents reflecting the original sentence. He maintains that his own notes show an unconstitutional sentence of 262 months’ imprisonment. According to the complainant, it “appear[s] the judge suffer[s] from [a] temporary or permanent mental disability which causes memory losses and thereby prevent[ed] the judge from recollect[ing] some important factors 8 days later.” The complainant presumes that the district judge had a fraudulent motive for altering his sentence. He concludes that the alteration of his sentence “surely affected the whole case including the outcome on appeal.”

---

<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.

The complainant's allegations are contrary to the record and unsupported by any evidence. These bare, speculative allegations must be dismissed because they are "frivolous, [and] lack[] 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).

The complaint is dismissed.

September 29th 2017



---

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