AUG 31 1978
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,	)	
Appellee,	)	Filed August 31, 1978
vs.	)	
JOHN DEWEY WAKEMAN,	)	580 / 60885
Appellant.	)	

Appeal from Polk District Court - A. B. Crouch, Judge.

Defendant claims the trial judge improperly refused to entertain plea negotiations previously rejected by another judge of the district which would have allowed the prosecutor to amend the robbery charge, a violation of § 711.3, The Code 1975, to that of larceny over twenty dollars, a violation of § 709.1, The Code 1975, and the defendant to plead guilty to the larceny charge. - Affirmed.

Ronald R. Ricker, Des Moines, for Appellant.

Richard C. Turner, Attorney General of Iowa, Ray Sullins, Assistant Attorney General, and Chester Woodburn, Assistant Polk County Attorney, for Appellee.

Submitted to Donielson, Acting C.J., and Snell, Oxberger and Carter, JJ.

PER CURIAM

Defendant John Dewey Wakeman seeks to reverse his conviction and sentence for robbery without aggravation, a violation of § 711.3, The Code 1975. He claims the trial judge improperly refused to accept his guilty plea to larceny over twenty dollars thereby forcing him to proceed to trial. We affirm.

At Wakeman's trial on the robbery charge, Judge Crouch refused Wakeman's request to plead guilty to a larceny charge. The prosecution and defense informed the court that the Chief Criminal Judge of the district, Judge Hanrahan, had previously ruled Wakeman's robbery charge could not be amended to a larceny over twenty dollars charge. The prosecution indicated it was still willing to accept such an amendment and to recommend Wakeman be allowed to plead guilty to the amended charge.

Wakeman argues that the refusal to consider the merits of the charge reduction bargain was an abuse of discretion. Inherent in a finding of abuse of discretion is a finding of unreasonable or arbitrary action. State ex. rel. Fletcher v. District Court of Jefferson County, 213 Iowa 822, 831, 238 N.W. 290, 294 (1931). We find Judge Crouch properly exercised his discretion in accepting Judge Hanrahan's determination that the nature of the criminal conduct alleged was robbery rather than larceny.

Wakeman urges that we should adopt the standard of limited judicial discretion set out in United States v. Ammidown, 497 F.2d 615, 622 (D. C. Cir. 1974) in assessing both judges' refusals of the prosecutor's bargain. That is, Wakeman argues that a trial judge can reject the prosecutor's charge negotiations only when the judge finds the prosecutor abused his discretion. We are persuaded the proper standard for review is set out in United States v. Bean, 564 F.2d 700, 703 N. 4. (5th Cir. 1977):

> . . . Although a prosecutor may have wide discretion in initiating prosecutions, once the aid of the court has been invited, the court cannot be expected to accept without question the prosecutor's view of the public good.

Bean in rendering its decision specifically refused to follow the Ammidown standard which so drastically limited the judge's discretion. Whether to accept or reject the plea bargain, is an independent decision to be made by the trial judge.

This court recently rejected the argument that the power to control charges lies with the prosecutor with the trial court able to refuse a plea bargain only when an abuse of prosecutorial discretion appears. State v. LeMatty, 263 N.W.2d 559, 561 (Ct. of App. Iowa 1977).

AFFIRMED.