

NOV 5 2021

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT****IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 21-90010

ORDER**THOMAS**, Chief Judge:

Complainant, a pro se prisoner, has filed a complaint of judicial misconduct against a district judge. Review of this complaint is governed by the Rules for Judicial Conduct and Judicial-Disability Proceedings (“Judicial-Conduct Rules”), the federal statutes addressing judicial conduct and disability, 28 U.S.C. § 351 et seq., and relevant prior decisions of the Ninth Circuit Judicial Council. In accordance with these authorities, the names of complainant and the subject judge[s] shall not be disclosed in this order. See Judicial-Conduct Rule 11(g)(2).

The Judicial Conduct and Disability Act provides a remedy if a federal judge “has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts.” 28 U.S.C. § 351(a). A chief judge may dismiss a complaint if, following review, he or she finds it is not cognizable under the statute, is directly related to the merits of a decision or procedural ruling, or is frivolous or lacks sufficient evidence to raise an inference of misconduct. See 28 U.S.C. § 352(b)(1)(A)(i)-(iii). Judicial misconduct proceedings are not a

substitute for the normal appellate review process, and may not be used to seek reversal of a judge's decision, to obtain a new trial, or to request reassignment to a different judge.

This complaint arises out of a class action filed by individuals who are incarcerated or formerly incarcerated. Complainant filed an amicus brief in the action. He alleges that the district judge ignored his motion and hid the motion from the attorneys involved in the case. This allegation is refuted by the record. The amicus brief is available on the docket and accessible by all parties involved in the case, as well as the general public. This allegation is dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii), (B).

Complainant next alleges that he is entitled to a monetary award as a result of the class action suit, but the judge personally ensured that complainant would not receive the award. He alleges that the judge did this as retaliation against complainant for filing his amicus brief. Complainant also alleges that the judge is conspiring with federal agencies to deprive complainant of his rights.

Complainant provides no objectively verifiable evidence in support of these allegations, and these allegations are dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 583 F.3d 598 (9th Cir. Jud. Council 2009); Judicial-Conduct Rule 11(c)(1)(D).

Finally, complainant wants the judge “charged, arrested, and lock in a cell for 1,000 years.” This is not a remedy that is available through the misconduct complaint process.

DISMISSED.