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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CARMEN E. CAMPBELL,

Plaintiff - Appellant,

v.

ALEXANDER STEIN, M.D.; et al.,

Defendants - Appellees.

No. 07-56480

D.C. No. CV-07-03900-GAF

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Gary A. Feess, District Judge, Presiding

Submitted February 18, 2009**

Before: BEEZER, FERNANDEZ, AND W. FLETCHER, Circuit Judges.

Carmen E. Campbell appeals pro se from the district court's order dismissing her medical malpractice action without leave to amend. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal under Fed. R.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Civ. P. 12(b)(1). *Cook v. AVI Casino Enters., Inc.*, 548 F.3d 718, 722 (9th Cir. 2008). We affirm.

The district court properly dismissed Campbell's action under Rule 12(b)(1), because there was no subject matter jurisdiction. There was no federal question jurisdiction under 28 U.S.C. § 1331, because Campbell alleged no facts that Dr. Alexander Stein acted under color of state law, required to state a claim under 42 U.S.C. § 1983. *See Am. Mfrs. Mut. Ins. Co. v. Sullivan*, 526 U.S. 40, 49-50 (1999) (holding that a § 1983 plaintiff must allege a constitutional violation committed under color of state law). Further, Campbell failed to plead diversity jurisdiction. *See* 28 U.S.C. § 1332.

Campbell also challenges the state court dismissal of her medical malpractice case, which was filed after the statute of limitations had expired, and a state court vexatious litigant order. Her challenge to the medical malpractice decision is barred under the *Rooker-Feldman* doctrine, because a losing party in state court is prohibited from seeking review of a state court decision in federal court, if the federal claim is inextricably intertwined with the state court issues, as is the case here. *See Noel v. Hall*, 341 F.3d 1148, 1158 (9th Cir. 2003). We do not consider Campbell's challenge to the state vexatious litigant order because she did not raise that claim in district court. *See Dodd v. Hood River County*, 59 F.3d 852, 863 (9th Cir. 1995).

Campbell's remaining contentions are not persuasive.

AFFIRMED.