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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MELINDA GABRIELLA
VALENZUELA, FKA Enrique Mendez,

Plaintiff - Appellant,

v.

CHARLES L. RYAN; et al.,

Defendants - Appellees.

No. 15-15741

D.C. No. 2:15-cv-00158-NVW-
MHB

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Neil V. Wake, District Judge, Presiding

Submitted November 18, 2015**

Before: TASHIMA, OWENS, and FRIEDLAND, Circuit Judges.

Melinda Gabriella Valenzuela, an Arizona state prisoner, appeals pro se from the district court's judgment in her 42 U.S.C. § 1983 action alleging that she was sexually assaulted by prison staff. We have jurisdiction under 28 U.S.C.

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

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

§ 1291. We reverse and remand.

The district court erred in dismissing Valenzuela’s action because, even in light of her previous lawsuits, the allegations in Valenzuela’s complaint were not factually frivolous. *See Denton v. Hernandez*, 504 U.S. 25, 32-33 (1992) (explaining that “a court may dismiss a claim as factually frivolous only if the facts alleged are clearly baseless, a category encompassing allegations that are fanciful, fantastic, and delusional” and a complaint “may not be dismissed . . . simply because the court finds the plaintiff’s allegations unlikely”).

REVERSED and REMANDED.