

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUN 21 2017

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

PARKSIDE GARDEN, LLC,

Plaintiff-Appellant,

v.

DEPARTMENT OF SOCIAL SERVICES
STATE OF CALIFORNIA,

Defendant-Appellee.

No. 15-56741

D.C. No.
5:15-cv-00043-JGB-KK

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Jesus G. Bernal, District Judge, Presiding

Submitted June 8, 2017**
Pasadena, California

Before: BEA and HURWITZ, Circuit Judges, and KOBAYASHI,** District
Judge.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

*** The Honorable Leslie E. Kobayashi, United States District Judge for the District of Hawaii, sitting by designation.

Parkside Garden, LLC, appeals the dismissal of its complaint against the California Department of Social Services (the “Department”). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

The Department is an agency and instrumentality of the State of California, and therefore entitled to Eleventh Amendment immunity. *See* U.S. Const. amend. XI (“The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.”); *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 100 (1984) (“It is clear, of course, that in the absence of consent a suit in which the State or one of its agencies or departments is named as the defendant is proscribed by the Eleventh Amendment.”). The California Government Code expressly defines “state agency” as “every state office, officer, department, division, bureau, board, and commission.” Cal. Gov’t Code § 11000(a). The Department exists within the California Health and Welfare Agency. Cal. Welf. & Inst. Code § 10550. Further, the Department is designated by statute “as the single state agency with full power to supervise every phase of the administration of public social services . . . for which grants-in-aid are received from the United States government or made by the

state in order to secure full compliance with the applicable provisions of state and federal laws.” Cal. Welf. & Inst. Code § 10600.

The Department’s Request for Incorporation by Reference and/or Judicial Notice is granted. *See United States ex rel. Robinson Rancheria Citizens Council v. Borneo, Inc.*, 971 F.2d 244, 248 (9th Cir. 1992) (“[W]e may take notice of proceedings in other courts, both within and without the federal judicial system, if those proceedings have a direct relation to matters at issue.” (citation omitted)); *Interstate Natural Gas Co. v. S. Cal. Gas Co.*, 209 F.2d 380, 385 (9th Cir. 1953) (“We may take judicial notice of records and reports of administrative bodies.”).

AFFIRMED.