

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 1 2021

FOR THE NINTH CIRCUIT

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

CHERYL KELMAR,

No. 20-55722

Plaintiff-Appellant,

D.C. No. 2:12-cv-06826-PSG-RGK

v.

MEMORANDUM*

PHILIP GUTIERREZ, Judge; FINK, Judge,

Defendants-Appellees,

and

BANK OF AMERICA CORPORATION; et
al.,

Defendants.

Appeal from the United States District Court
for the Central District of California
Philip S. Gutierrez, District Judge, Presiding

Submitted May 18, 2021**

Before: CANBY, FRIEDLAND, and VANDYKE, Circuit Judges.

Cheryl Kelmar appeals pro se from the district court's order rejecting her

* 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).

proposed complaint under a pre-filing vexatious litigant order. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion. *Moy v. United States*, 906 F.2d 467, 469 (9th Cir. 1990). We affirm.

The district court did not abuse its discretion by rejecting Kelmar’s proposed complaint because the complaint was within the scope of the district court’s pre-filing vexatious litigant order. *See Weissman v. Quail Lodge, Inc.*, 179 F.3d 1194, 1197 (9th Cir. 1999) (“District courts have the inherent power to file restrictive pre-filing orders against vexatious litigants with abusive and lengthy histories of litigation. Such pre-filing orders may enjoin the litigant from filing further actions or papers unless he or she first meets certain requirements, such as obtaining leave of the court” (internal citation omitted)).

We reject as without merit Kelmar’s contention that the district judge should have recused himself from this action.

We do not consider Kelmar’s contentions regarding the underlying merits of her proposed complaint or the vexatious litigant orders against her in the Central District of California and Santa Barbara County Superior Court because those issues are outside the scope of this appeal.

AFFIRMED.