

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 21 2021

FOR THE NINTH CIRCUIT

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

CHERI SMITH,

Plaintiff-Appellant,

v.

BOARD OF COUNTY COMMISSIONERS
OF SAN JUAN COUNTY; et al.,

Defendants-Appellees,

and

DOUG ALLEN ECHOLS; et al.,

Defendants.

No. 20-15763

D.C. No. 2:19-cv-04641-DLR-ESW

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Douglas L. Rayes, District Judge, Presiding

Submitted July 19, 2021**

Before: SCHROEDER, SILVERMAN, and MURGUIA, Circuit Judges.

Cheri Smith appeals pro se from the district court's judgment dismissing 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).

42 U.S.C. § 1983 action alleging federal and state law claims. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion the district court's dismissal under its local rules. *Hinton v. Pac. Enters.*, 5 F.3d 391, 395 (9th Cir. 1993). We affirm.

The district court did not abuse its discretion by dismissing Smith's action after Smith failed to file an opposition to defendants' motions to dismiss as required by Local Rule 7.2(i). *See* D. Ariz. R. 7.2(i) (providing that failure to file the required answering memoranda to a motion "may be deemed a consent to the . . . granting of the motion"); *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (setting forth factors to be considered before dismissing an action for failure to follow the local rules, concluding that this court may review the record independently if the district court does not make explicit findings regarding the factors, and noting that pro se litigants are bound by the rules of procedure).

The district court did not abuse its discretion by denying Smith's motion to file a second amended complaint because Smith failed to describe how the amendments would cure the deficiencies in the prior complaint, and the proposed amendments did not cure the deficiencies. *See* D. Ariz. R. 15.1 (providing that the proposed amended pleading "must indicate in what respect it differs from the pleading which it amends"); *Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1041 (9th Cir. 2011) (setting forth standard of review and explaining that

dismissal without leave to amend is proper when amendment would be futile).

We reject as meritless Smith's contention that the district court erred by not taking judicial notice of her proposed exhibits.

All pending motions (Docket Entry Nos. 36, 46, 54, and 55) are denied.

Defendants' request that this court designate Smith a vexatious litigant, set forth in the answering brief, is denied.

AFFIRMED.