

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 21 2023

FOR THE NINTH CIRCUIT

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

MICHAEL S. YELLEN,

No. 22-16882

Plaintiff-Appellant,

D.C. No. 1:22-cv-00379-JMS-KJM

v.

MEMORANDUM*

JILL HASEGAWA; SOUTH KOHALA
DISTRICT COURT CLERKS; HAWAII
SUPREME COURT,

Defendants-Appellees.

Appeal from the United States District Court
for the District of Hawaii
J. Michael Seabright, District Judge, Presiding

Submitted August 15, 2023**

Before: TASHIMA, S.R. THOMAS, and FORREST, Circuit Judges.

Michael S. Yellen appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action arising out of state court proceedings. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Cholla Ready Mix*,

* 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).

Inc. v. Civish, 382 F.3d 969, 973 (9th Cir. 2004) (dismissal under Federal Rule of Civil Procedure 12(b)(6) and on the basis of Eleventh Amendment immunity); *Romano v. Bible*, 169 F.3d 1182, 1186 (9th Cir. 1999) (dismissal on the basis of judicial immunity). We affirm.

The district court properly dismissed Yellen’s action against Judge Hasegawa and the South Kohala District Court Clerks in their official capacities because they are entitled to Eleventh Amendment immunity. *See Lund v. Cowan*, 5 F.4th 964, 969 (9th Cir. 2021) (explaining that state court judges “sued in their official capacities are generally entitled to Eleventh Amendment immunity”); *Krainski v. Nev. ex rel. Bd. of Regents of Nev. Sys. of Higher Educ.*, 616 F.3d 963, 967 (9th Cir. 2010) (“The Eleventh Amendment jurisdictional bar applies regardless of the nature of the relief sought and extends to state instrumentalities and agencies.”).

The district court properly dismissed Yellen’s action against Judge Hasegawa and the South Kohala District Court Clerks in their individual capacities because they are entitled to judicial immunity. *See Acres Bonusing, Inc. v. Marston*, 17 F.4th 901, 916 (9th Cir. 2021) (“Court clerks have absolute quasi-judicial immunity from damages for civil rights violations when they perform tasks that are an integral part of the judicial process.” (citation omitted)); *Olsen v. Idaho State Bd. of Med.*, 363 F.3d 916, 922 (9th Cir. 2004) (holding state court judges are

absolutely immune from suits for damages for acts undertaken in judicial capacity).

AFFIRMED.