

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 27 2024

FOR THE NINTH CIRCUIT

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

RUDOLFO CHAVEZ,

Plaintiff-Appellee,

v.

LEAH CHAVEZ,

Defendant-Appellant.

No. 22-16352

D.C. No. 2:22-cv-01431-TLN-KJN

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Troy L. Nunley, District Judge, Presiding

Submitted February 21, 2024**

Before: FERNANDEZ, NGUYEN, and OWENS, Circuit Judges.

Leah Chavez appeals pro se from the district court's order remanding this action to state court. We have jurisdiction under 28 U.S.C. §§ 1291 and 1447(d). We review de novo. *Lively v. Wild Oats Markets, Inc.*, 456 F.3d 933, 938 (9th Cir. 2006). We affirm.

* 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 district court properly sua sponte remanded this action to state court for lack of subject matter jurisdiction because Leah Chavez failed to establish federal question jurisdiction or show a basis for civil rights jurisdiction. *See* 28 U.S.C. § 1331 (providing original jurisdiction for civil actions “arising under” federal law); 28 U.S.C. § 1443 (providing removal jurisdiction for violations of equal civil rights); 28 U.S.C. § 1447(c) (requiring district courts to remand “at any time” for lack of subject matter jurisdiction); *Patel v. Del Taco, Inc.*, 446 F.3d 996, 998-99 (9th Cir. 2006) (setting forth two-part test for removal under § 1443(1)), *abrogated on other grounds by BP P.L.C. v. Mayor & City Council of Baltimore*, 593 U.S. 230 (2021).

AFFIRMED.