

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 23 2026

FOR THE NINTH CIRCUIT

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

MELODY BIRKETT,

Plaintiff - Appellant,

v.

AMERICAN RED CROSS; EDGAR
OLIVO,

Defendants - Appellees.

No. 24-4092

D.C. No. 2:24-cv-00537-SPL

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Steven Paul Logan, District Judge, Presiding

Submitted January 22, 2026**

Before: WARDLAW, CLIFTON, and R. NELSON, Circuit Judges.

Melody Birkett appeals pro se from the district court's judgment dismissing her employment action. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal under Federal Rule of Civil Procedure 12(b)(6). *Puri v.*

* 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).

Khalsa, 844 F.3d 1152, 1157 (9th Cir. 2017). We affirm.

The district court properly dismissed Birkett’s action because Birkett failed to allege facts sufficient to state a plausible claim, or to allege that any defendant was a state actor. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (to avoid dismissal, “a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face” (citation and internal quotation marks omitted)); *Chudacoff v. Univ. Med. Ctr. of S. Nev.*, 649 F.3d 1143, 1149 (9th Cir. 2011) (elements of 42 U.S.C. § 1983 action); *Price v. Hawaii*, 939 F.2d 702, 707-08 (9th Cir. 1991) (explaining state action requirement and that private parties are generally not state actors).

The district court did not abuse its discretion by dismissing without leave to amend because amendment would be futile. *See 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); *Metzler Inv. GMBH v. Corinthian Colls., Inc.*, 540 F.3d 1049, 1072 (9th Cir. 2008) (explaining that “the district court’s discretion to deny leave to amend is particularly broad where plaintiff has previously amended the complaint” (citation omitted)).

The district court did not abuse its discretion in denying Birkett’s request for electronic filing privileges. *See D. Ariz. R. 5.5* (explaining electronic filing rules

and exceptions); *Bias v. Moynihan*, 508 F.3d 1212, 1223 (9th Cir. 2007) (setting forth standard of review and stating that “[b]road deference is given to a district court’s interpretation of its local rules”).

AFFIRMED.