

NOT FOR PUBLICATION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

ROBERT EMERT,

Plaintiff - Appellant,

v.

COUNTY OF SAN DIEGO BOARD OF  
SUPERVISORS; COUNTY OF SAN  
DIEGO; DAWN BALERIO, DDA, Acting  
in her official capacity; DAI LUIS PENA,  
Acting in his official capacity,

Defendants - Appellees.

No. 25-3694

D.C. No. 3:24-cv-00671-JO-MSB

MEMORANDUM\*

Appeal from the United States District Court  
for the Southern District of California  
Jinsook Ohta, District Judge, Presiding

Submitted January 22, 2026\*\*

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

Robert Emert appeals pro se from the district court's judgment dismissing  
his 42 U.S.C. § 1983 action alleging constitutional claims arising from his pretrial

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\* 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).

detention. 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. Khalsa*, 844 F.3d 1152, 1157 (9th Cir. 2017). We may affirm on any ground supported by the record. *Jones v. Allison*, 9 F.4th 1136, 1139 (9th Cir. 2021). We affirm.

The district court properly dismissed Emert’s action because Emert failed to allege facts sufficient to state a plausible claim. *See Manuel v. City of Joliet, Ill.*, 580 U.S. 357, 360 (2017) (explaining that the Fourth Amendment “establishes the standards and procedures governing pretrial detention” (citation and internal quotation marks omitted)); *Thompson v. Clark*, 596 U.S. 36, 49 (2022) (holding that to prevail on a Fourth Amendment malicious prosecution claim, a plaintiff must “show that the criminal prosecution ended without a conviction”); *Galen v. County of Los Angeles*, 477 F.3d 652, 660-64 (9th Cir. 2007) (discussing requirements for violation of the Eighth Amendment’s Excessive Bail Clause and holding that “a judicial officer’s exercise of independent judgment . . . is a superseding cause that breaks the chain of causation linking law enforcement personnel to the officer’s decision about bail”); *see also Lockett v. County of Los Angeles*, 977 F.3d 737, 741 (9th Cir. 2020) (explaining that a claim for municipal liability under *Monell v. Department of Social Services*, 436 U.S. 658 (1978), requires a plaintiff to show an underlying constitutional violation).

The district court did not abuse its discretion by dismissing the complaint 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).

Emert's unopposed motion (Docket Entry No. 12) for leave to file an oversized reply brief is granted.

All other pending motions and requests are denied.

**AFFIRMED.**