

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 6 2026

FOR THE NINTH CIRCUIT

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

ANDREA DAWN GEORGE,

Plaintiff - Appellant,

v.

CONFEDERATED TRIBES OF THE  
COLVILLE RESERVATION; RODNEY  
CAWSTON; ANDREW JOSEPH, JR.;  
JACK FERGUSON; RICHARD SWAN  
SR.; MARVIN KHEEL; JOSEPH  
SOMDAY; JOEL BOYD; RICHARD  
MOSES; ALICE KOSKELA; SHANNON  
THOMAS; JASON D'AVIGNON; PETER  
ERBLAND; EDWARD JURSEK;  
CARMEL MCCURDY; CHARISSA  
EICHMAN; MARTY RAAP; NICHELLE  
BARNABY; SABRINA DESAUTEL;  
RANDAL STECKEL; DEBRA WULFF;  
THOMAS MILLER; SOPHIE NOME, E,

Defendants - Appellees.

No. 25-2071

D.C. No.

2:24-cv-00123-SAB

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of Washington  
Stanley Allen Bastian, District Judge, Presiding

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

Submitted March 31, 2026\*\*

Before: NGUYEN, MILLER, and COLLINS, Circuit Judges.

Plaintiff Andrea George appeals the district court's dismissal of her action against the Confederated Tribes of the Colville Reservation, a federally recognized Indian tribe, and individual defendants associated with the Colville Tribes. George alleged that, in expelling her from her position on the Colville Business Council, defendants violated her rights under the U.S. Constitution; the Indian Civil Rights Act (ICRA), 25 U.S.C. § 1302; and the Colville Tribal Code. The district court dismissed George's claims for lack of subject-matter jurisdiction. We have jurisdiction under 28 U.S.C. § 1291. We largely affirm the district court's order, but remand with instructions to dismiss George's claims without prejudice.

1. The district court lacked subject-matter jurisdiction over George's claims. George's complaint challenges her February 2019 removal from the Colville Business Council, a Council ethics investigation directed against her, her exclusion from running as a candidate in a subsequent election, and various acts by other Council members, all of which she alleges violated tribal law. But alleged violations of tribal law are insufficient to establish that a case arises under the laws of the United States for purposes of federal-question jurisdiction under 28 U.S.C.

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\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

§ 1331. See *Boe v. Fort Belknap Indian Cmty. of Fort Belknap Rsrv.*, 642 F.2d 276, 279 (9th Cir. 1981).

Nor does ICRA provide an avenue for George to bring her claims in federal court. In passing ICRA, Congress did not create a private right of action for “injunctive or other relief to redress violations” of ICRA, apart from ICRA’s habeas remedy. *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 71–72 (1978); see *Imperial Granite Co. v. Pala Band of Mission Indians*, 940 F.2d 1269, 1271 n.3 (9th Cir. 1991) (“Congress has provided no private right of action to enforce the Act, other than habeas corpus.”). George does not pursue a habeas remedy, so she cannot rely on ICRA to establish federal jurisdiction here.

George asserts no cognizable constitutional claims under 42 U.S.C. § 1983. Although her complaint does not reference section 1983 or specifically allege any constitutional violations, the district court, conjecturing that George “may be asserting claims under the Equal Protection Clause, the Due Process Clause, and the Free Speech Clause of the U.S. Constitution,” analyzed whether she could bring such claims and correctly determined that she may not. To bring a section 1983 claim, a plaintiff must allege that the defendants, acting “under color of state law,” deprived her of federal rights. *Thornton v. City of St. Helens*, 425 F.3d 1158, 1163–64 (9th Cir. 2005). George does not allege that the Tribe or any of the individual defendants acted under color of state law. “The Constitution’s

limitations on federal and state action do[] not restrain Indian tribes,” *Imperial Granite Co.*, 940 F.2d at 1271 n.3, and actions under section 1983 therefore “cannot be maintained in federal court for persons alleging a deprivation of constitutional rights under color of tribal law,” *Evans v. McKay*, 869 F.2d 1341, 1347 (9th Cir. 1989).

The district court also correctly rejected what it generously construed as George’s effort to invoke the federal common law cause of action recognized in *National Farmers Union Insurance Cos. v. Crow Tribe of Indians*, 471 U.S. 845, 857 (1985). There, the Court recognized a federal common law action by a “non-Indian” who had been sued in tribal court and who asserted a “right to be protected against an unlawful exercise of Tribal Court judicial power.” *Id.* at 850–53. Here, George is a tribal member who, as a plaintiff, voluntarily invoked the jurisdiction of the tribal courts of her own tribe. *See George v. Colville Confederated Tribes*, 16 Am. Tribal Law 388 (Colville Ct. App. 2022); *George v. Jursek*, 18 Am. Tribal Law 262 (Colville Ct. App. 2024). She has identified no colorable jurisdictional objection that she could properly raise to the tribal court’s ensuing proceedings.

Because George’s various theories for asserting a federal cause of action were “wholly insubstantial,” the district court lacked federal-question jurisdiction. *See Shapiro v. McManus*, 577 U.S. 39, 45–46 (2015) (quoting *Bell v. Hood*, 327

U.S. 678, 682–83 (1946)). And because the parties are concededly not fully diverse, there was no diversity jurisdiction either.

2. Because the district court lacked original jurisdiction, the district court also lacked supplemental jurisdiction over any of George’s non-federal claims. 28 U.S.C. § 1367(a) (granting supplemental jurisdiction only over cases in which the district courts have “original jurisdiction”); *see also Royal Canin U.S.A., Inc. v. Wullschleger*, 604 U.S. 22, 30–31 (2025) (“With the loss of federal-question jurisdiction, the court loses as well its supplemental jurisdiction over the state claims.”).

3. The district court did not abuse its discretion by denying further leave to amend. *See Great Minds v. Office Depot, Inc.*, 945 F.3d 1106, 1112 (9th Cir. 2019). A court may deny leave to amend if amendment would be futile or the plaintiff has failed to cure the complaint’s deficiencies despite repeated opportunities. *See Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1041 (9th Cir. 2011). George received multiple opportunities to amend but did not cure the deficiencies in her complaint. The district court reasonably concluded that further amendment would be futile.

4. After determining that it lacked subject-matter jurisdiction, the district court dismissed George’s complaint with prejudice. But a dismissal for lack of subject-matter jurisdiction does not adjudicate the merits and therefore should be

without prejudice. *See Kelly v. Fleetwood Enters.*, 377 F.3d 1034, 1036 (9th Cir. 2004). We remand for the district court to amend the judgment to dismiss this suit without prejudice.

Costs shall be taxed against appellant.

**AFFIRMED and REMANDED.**