

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 16 2026

FOR THE NINTH CIRCUIT

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

MARIO RENE RUBI,

Plaintiff - Appellant,

v.

JENNIFER SUMMERS, individual,

Defendant - Appellee.

No. 24-1058

D.C. No.

2:19-cv-10885-ODW-AS

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
Otis D. Wright, II, District Judge, Presiding

Submitted May 29, 2026\*\*

Before: LEE, SANCHEZ, and H.A. THOMAS, Circuit Judges.

Mario Rene Rubi appeals the district court’s grant of summary judgment in favor of Dr. Jennifer Summers, a prison staff psychologist, on Rubi’s Eighth Amendment claims brought pursuant to 28 U.S.C. § 1983. “[W]e review the district court’s order granting Defendants’ motion for summary judgment *de*

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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).

*novo.*” *In re Oracle Corp. Sec. Litig.*, 627 F.3d 376, 387 (9th Cir. 2010). We have jurisdiction under 28 U.S.C. § 1291. We affirm.

1. The majority of Rubi’s allegations of sexual harassment—those involving alleged acts that would have been observed by passersby or that would have occurred after group therapy sessions—are “unsupported by the record such that no reasonable jury could believe them.” *Wilkinson v. Torres*, 610 F.3d 546, 550 (9th Cir. 2010). The district court therefore appropriately declined to adopt Rubi’s version of the facts and properly found that he failed to raise any genuine dispute of material fact. *See id.*

2. Many of Rubi’s allegations of sexual harassment, even if true, do not amount to Eighth Amendment violations. *See Austin v. Terhune*, 367 F.3d 1167, 1171–72 (9th Cir. 2004). The district court therefore appropriately granted summary judgment in favor of Dr. Summers on these claims.

**AFFIRMED.**