

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 1 2026

FOR THE NINTH CIRCUIT

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

JOHN O. MILLER,

Plaintiff - Appellant,

v.

STEVE HURD; BRADLEY NEWMAN;
JIMMY PATELIS; JOSEPH MCELROY,

Defendants - Appellees.

No. 25-5076

D.C. No.

6:25-cv-00044-DWM

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Donald W. Molloy, District Judge, Presiding

Submitted August 25, 2026**

Before: SILVERMAN, N.R. SMITH, and DE ALBA, Circuit Judges.

Montana state prisoner John O. Miller appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging constitutional violations arising out of his parole hearing. We have jurisdiction under 28 U.S.C.

* 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).

§ 1291. We review de novo a dismissal under 28 U.S.C. § 1915A. *Wilhelm v. Rotman*, 680 F.3d 1113, 1118 (9th Cir. 2012). We may affirm on any basis supported by the record. *Johnson v. Riverside Healthcare Sys., LP*, 534 F.3d 1116, 1121 (9th Cir. 2008). We affirm.

Dismissal of Miller’s claims against defendants in their official capacities was proper because Miller failed to allege facts sufficient to show that the state’s policy or custom was a moving force behind the alleged violation. *See Kentucky v. Graham*, 473 U.S. 159, 166 (1985) (“[I]n an official-capacity suit the entity’s ‘policy or custom’ must have played a part in the violation of federal law.” (quoting *Monell v. Dep’t of Soc. Servs.*, 436 U.S. 658, 694 (1978))).

The district court properly dismissed Miller’s claims against defendants in their individual capacities because defendants are entitled to absolute immunity. *See Fort v. Washington*, 41 F.4th 1141, 1146 (9th Cir. 2022) (actions taken that are “part and parcel of the [parole] decision process” warrant quasi-judicial immunity (internal quotation marks omitted)); *Bermudez v. Duenas*, 936 F.2d 1064, 1066 (9th Cir. 1991) (“[P]arole board officials are entitled to absolute immunity from liability for damages for their actions taken when processing parole applications.”); *see also Moore v. Urquhart*, 899 F.3d 1094, 1104-05 (9th Cir. 2018) (recognizing that the Federal Courts Improvement Act of 1996’s expansion of the scope of

judicial immunity to prohibit injunctive relief was not limited to judges).

AFFIRMED.