

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 2 2026

FOR THE NINTH CIRCUIT

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

ALAN MILLS,

Plaintiff - Appellant,

v.

NOAH ZEICHNER,

Defendant - Appellee.

No. 24-923

D.C. No.

2:23-cv-01130-JLR

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
James L. Robart, District Judge, Presiding

Submitted September 2, 2026**

Before: O'SCANNLAIN, SILVERMAN, and RAWLINSON, Circuit Judges.

Alan Mills appeals pro se from the district court's dismissal of his complaint against Noah Zeichner, a public school teacher, alleging that Zeicher violated state law and Mills's Fourteenth Amendment right to direct the care, custody, and control of his daughter (A.K.). We have jurisdiction pursuant to 28 U.S.C. § 1291

* 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).

and review the dismissal de novo. *See Webb v. Trader Joe's Co.*, 999 F.3d 1196, 1201 (9th Cir. 2021) (Rule 12(c) dismissal); *Benavidez v. Cnty. of San Diego*, 993 F.3d 1134, 1141 (9th Cir. 2021) (qualified immunity). We affirm.

The district court properly found that Zeichner was entitled to qualified immunity on the Fourteenth Amendment claim because the law was not clearly established. *See Benavidez*, 993 F.3d at 1151 (setting forth the qualified immunity standard). As the district court concluded, nothing in the law would have made clear to a reasonable teacher in Zeichner's position that allowing A.K. to continue voluntarily participating in the extracurricular activity would violate her father's due process rights. *See Cal. Parents for the Equalization of Educ. Materials v. Torlakson*, 973 F.3d 1010, 1020 (9th Cir. 2020).

Nor did the district court err in holding that the alleged actions that the teacher took while advising the students were discretionary, not ministerial. *See F.E. Trotter, Inc. v. Watkins*, 869 F.2d 1312, 1314-15 (9th Cir. 1989) (explaining that the exercise of judgment of how to carry out objectives for a duty makes a function discretionary).

The district court properly dismissed the state intentional infliction of emotional distress claim because Mills was not present when the offending conduct took place and the conduct was not sufficiently extreme or outrageous. *See Reid v. Pierce Cnty.*, 961 P.2d 333, 337-38 (Wash. 1998) (en banc) (setting forth the

elements of the claim and holding that the plaintiffs could not prevail on their claim because they “were simply not present when the conduct occurred”).

Because Mills failed to establish a wrongful injury through his other claims, the district court properly dismissed the state claim alleging wrongful injury of a minor child pursuant to Revised Code of Washington § 4.24.010. *See Est. of Davis v. State, Dep’t of Corr.*, 113 P.3d 487, 493-94 (Wash. Ct. App. 2005) (noting that the “statute is intended to provide a civil cause of action for wrongful injury or death of a minor child”).

The district court did not abuse its discretion by dismissing without leave to amend because amendment would be futile. *See Webb*, 999 F.3d at 1204 (dismissal with prejudice is proper if the complaint cannot be saved by amendment).

AFFIRMED.