

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 25 2026

FOR THE NINTH CIRCUIT

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

ELENA PORTNOY,

Plaintiff - Appellant,

v.

ROSA MEZA; RAY PATTERSON;
LELAND KINTER,

Defendants - Appellees,

and

ALISHA BYRD,

Defendant.

No. 26-145

D.C. No. 2:24-cv-03456-DJC-CKD

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Daniel J. Calabretta, District Court, Presiding

Submitted September 22, 2026**

Before: OWENS, COLLINS, and SUNG, Circuit Judges.

* 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).

Elena Portnoy appeals pro se from the district court's judgment dismissing her 42 U.S.C. § 1983 action alleging federal and state law claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's sua sponte dismissal. *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998) (order). We affirm.

The district court properly dismissed Portnoy's § 1983 claims because Portnoy failed to allege facts sufficient to show that any defendant acted under color of state law. *See Pistor v. Garcia*, 791 F.3d 1104, 1114 (9th Cir. 2015) (setting forth elements of a § 1983 claim and explaining that "actions under section 1983 cannot be maintained in federal court for persons alleging a deprivation of constitutional rights under color of tribal law" (citation and internal quotation marks omitted)).

AFFIRMED.