

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 23 2026

FOR THE NINTH CIRCUIT

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

RICHARD TRISTAN,

Plaintiff - Appellant,

v.

COUNTY OF LOS ANGELES, et al.,

Defendants - Appellees.

No. 25-4201

D.C. No.

2:24-cv-09522-SVW-PVC

Central District of California,
Los Angeles

MEMORANDUM*

On Appeal from the United States District Court
for the Central District of California
Stephen V. Wilson, District Judge, Presiding

Submitted October 21, 2026**
Pasadena, California

Before: BUMATAY, VANDYKE, and MENDOZA, JR., Circuit Judges.

Richard Tristan appeals the dismissal of his 42 U.S.C. § 1983 suit against his former employer, the County of Los Angeles, and his former union, the American Federation of State, County, and Municipal Employees, Local 685 (“Union”). He

* 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).

alleged that the County and Union violated his First Amendment rights under *Janus v. AFSCME, Council 31*, 585 U.S. 878 (2018). We review the dismissal for failure to state a claim under Federal Rule of Civil Procedure Rule 12(b)(6) de novo. *Depot, Inc. v. Caring for Montanans, Inc.*, 915 F.3d 643, 652 (9th Cir. 2019). We affirm.

1. Tristan’s claim against the Union fails because the Union did not engage in state action. *See Lindke v. Freed*, 601 U.S. 187, 193–95 (2024). “We use a two-prong inquiry to determine” whether a private organization—like the Union—“engaged in state action” under § 1983. *Wright v. Serv. Emps. Int’l Union Loc. 503*, 48 F.4th 1112, 1121 (9th Cir. 2022). The Union’s actions “must meet (1) the state policy requirement, and (2) the state actor requirement.” *Id.* Neither prong is met.

First, the Union didn’t act under state policy. “Under the state policy requirement, we consider whether the claimed constitutional deprivation resulted from the exercise of some right or privilege created by the State or by a rule of conduct imposed by the [S]tate or by a person for whom the State is responsible.” *Wright*, 48 F.4th at 1121–22 (simplified). We have already held that two similar state statutory union-deduction schemes do not transform a union’s acts into state action. *See id.* at 1121–25; *Belgau v. Inslee*, 975 F.3d 940, 946–49 (9th Cir. 2020).¹

¹ Tristan contends that *Lindke* overruled *Wright* and *Belgau*. It did not. *Lindke* provides a test for when online posts by *state officials* constitute official action. 601 U.S. at 191–198. It has no bearing on the issue presented in *Wright* and *Belgau*—whether unions possessed state power to begin with. Thus, *Wright* and

Tristan claims the Union “deduct[ed his] money without [his] consent [under] state law.” *Wright*, 48 F.4th at 1122. “But this fraudulent act is by its nature antithetical to any ‘right or privilege created by the State’ because it is an express violation of existing state law.” *Id.* at 1123 (quoting *Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 937 (1982)). California law allows Counties to “[r]ely on a certification from any employee organization requesting a deduction or reduction.” Cal. Gov’t Code § 1157.12(a). Thus, Tristan’s “constitutional claims against [the Union] rest on a private misuse of a state statute”—providing inaccurate certifications—“that is, by definition, contrary to the relevant policy articulated by the State.” *Wright*, 48 F.4th at 1123 (simplified).

Second, the Union was not a state actor under any of the four overlapping “tests outlined by the Supreme Court” for that question. *Wright*, 48 F.4th at 1122 (simplified). The “joint action” test fails. The government’s “role in the [Union’s] allegedly unconstitutional conduct” was minimal. *Belgau*, 975 F.3d at 948. “At best,” it “ministerial[ly] process[ed]” payroll deductions under employees’ authorizations as passed on by the union. *Id.* The “public function” test also fails. The Union’s dues-collecting role—“obtain[ing] an employee’s authorization for

Belgau are far from “clearly irreconcilable” with *Lindke*. *Miller v. Gammie*, 335 F.3d 889, 900 (9th Cir. 2003) (en banc).

union membership and dues deduction”—is not “traditionally and exclusively . . . governmental.” *Wright*, 48 F.4th at 1124 (simplified).

The “governmental nexus” test too fails. Even “detailed regulation of and substantial funding for private actors are not sufficient to transform the party’s conduct into state action,” *Jensen v. Lane County*, 222 F.3d 570, 575 (9th Cir. 2000), so the “ministerial processing” task that California law gives the Union falls short, *Belgau*, 975 F.3d at 948. Finally, the “state compulsion” test fails. No government threatened the Union or forced it to take Tristan’s wages. *See Child. ’s Health Def. v. Meta Platforms, Inc.*, 112 F.4th 742, 759 (9th Cir. 2024). Because Tristan has no path to state action, the district court rightly dismissed the claim against the Union.

2. Tristan’s § 1983 claim against the County—which he brought as a *Monell* claim, *see Monell v. Dep’t of Soc. Servs.*, 436 U.S. 658 (1978)—fares no better. He must show a “direct causal link between a [county] policy . . . and [an] alleged constitutional deprivation,” plus that the County pursued the policy with “deliberate indifference to [his] constitutional rights.” *Castro v. County of Los Angeles*, 833 F.3d 1060, 1075–76 (9th Cir. 2016) (en banc) (simplified). He did not do that.

A *Monell* policy “must be a deliberate choice to follow a course of action . . . made from among various alternatives by the official or officials responsible for establishing final policy.” *Benavidez v. County of San Diego*, 993 F.3d 1134, 1153 (9th Cir. 2021) (quoting *Castro*, 833 F.3d at 1075). California law

gives the County no choice but to remit Tristan’s money when the Union files its certification. *See* Cal. Gov’t Code § 1157.12(a).

Public employers “shall honor employee authorizations” to withhold dues, and “shall[] [r]ely on [union] information” and “certification” that those authorizations are good—unless a concrete “dispute arises,” in which case they may ask for verification. Cal. Gov’t Code §§ 1157.3(b), 1157.12(a)–(b). But Tristan “never alleged [the County was] even aware” he had revoked his authorization. *Ochoa v. Pub. Consulting Grp., Inc.*, 48 F.4th 1102, 1110 (9th Cir. 2022). Because the County did not “know or have any reason to know [the Union’s] representations were false,” *id.*, it had to hand over the deduction. The County had no option to verify what the Union was saying. It was “mandator[il]y,” not deliberately, “indifferen[t]” to any flaws in the process. *Belgau*, 975 F.3d at 948 (simplified).

What’s more, the County was under no obligation to adopt the procedures Tristan demands. We’ve repeatedly held that public employers have no “affirmative [constitutional] duty” after *Janus* “to ensure that membership agreements and dues deductions are genuine.” *Wright*, 48 F.4th at 1125; *accord Belgau*, 975 F.3d at 951–52 (observing that *Janus* doesn’t “require[] constitutional waivers” when government withholds dues under a “voluntary [union] agreement”). Here, Tristan’s initial authorization for the Union to collect dues was voluntary. And the only authority he cites in support of constitutionally required process for withholding,

Chicago Teachers Union, Local No. 1 v. Hudson, 475 U.S. 292 (1986), is about pre-*Janus* involuntary dues, so it is inapposite. See, e.g., *Barlow v. Serv. Emps. Int’l Union Loc. 668*, 90 F.4th 607, 617 (3d Cir. 2024) (rejecting similar argument); *Wheatley v. N.Y. State United Tchrs.*, 80 F.4th 386, 392 (2d Cir. 2023) (same).

AFFIRMED.