

Appendix

No.

In The

Supreme Court of the United States

Jacquelyn Annette Miller

Petitioner

v.

Dylan Farris, Keith Butler, Jeremy Gerson, James
Han, Betty Lieu, Anil Muhammed, Jasmine Park,
Timothy Stowe, Individually

Respondents

On Petition for Writ of Certiorari to the
United States Court of Appeals for the Ninth Circuit

Petition For Writ of Certiorari

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FILED
OCT 16 2025
MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JACQUELYN MILLER,

Plaintiff-Appellant,

v.

DYLAN FARRIS, TUSD Chief
Personnel Officer of Human
Resources; KEITH BUTLER,
TUSD Chief Business Officer
of the Business Office;
JEREMY GERSON, Vice
President of the TUSD Board
of Education; JAMES HAN
President of the Board;
BETTY LIEU, Member of the
Board; ANIL MUHAMMED,
Member of the Board; JAMES
PARK Clerk of the Board;
TIMOTHY STOWE,
Superintendent of TUSD,
Defendants-Appellees,
and
UNKNOWN; TORRANCE
UNIFIED
SCHOOL DISTRICT,
Defendants.

No. 23-55717
D.C. No.: 2:21-cv-
09551-SSS-AS

MEMORANDUM*

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

Appeal from the United States District Court
for the Central District of California
Sunshine Suzanne Sykes, District Judge, Presiding

Submitted October 16, 2025 **

Before: O'SCANNLAIN, SILVERMAN, and N.R.

SMITH, Circuit Judges.

Plaintiff Jacquelyn Miller appeals the district court's Rule 12(b)(6) dismissal of her Fourth Amended Complaint alleging civil rights and state law claims. Plaintiff's claims arise out of the defendants' implementation of the 2021 California Department of Public Health order requiring that schools verify the COVID-19 vaccination status of all school workers. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review the dismissal de novo and denial of leave to amend for an abuse of discretion. *Cervantes v.*

Countrywide Home Loans, Inc. , 656 F.3d 1034, 1040-41 (9th Cir. 2011). We affirm.

Contrary to plaintiff's belief, both the district judge and magistrate judge preside in the same court, the United States District Court for the Central District of California. Neither the assignment to the magistrate judge nor reassignment to the district judge was improper.

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Plaintiff argues that she did not consent to proceed before the magistrate judge. However, the magistrate judge's authority to rule on nondispositive pretrial matters and make recommendations "is not contingent on litigant consent." *Anderson v. Woodcreek Venture Ltd.* , 351 F.3d 911, 917 (9th Cir. 2003). The district judge complied with the statute by

dismissing the action after conducting a de novo review of the report and recommendation. 28 U.S.C. § 636(b)(1).

Plaintiff argues that the judges were biased. But she has not identified any extrajudicial source of bias. Bias does not exist merely because a judge rules against a party. *Leslie v. Grupo ICA*, 198 F.3d 1152, 1160 (9th Cir. 1999).

The district court properly applied Federal Rule of Civil Procedure 12(b)(6) to dismiss the Fourth Amended Complaint. The district court considered the facts alleged in the complaint and attached documents to be true when it dismissed the Fourth Amended Complaint. See *United States v. Ritchie*, 342 F.3d 903, 908 (9th Cir. 2003) (the court may consider documents attached to the complaint and assume that the contents of documents are true for purposes of Rule 12(b)(6)).

Plaintiff argues that she stated a procedural due process claim by alleging that the defendants did not respond to her concerns about the state policy or provide notice of the consequences of not complying with that policy. However, even if plaintiff identified a protected interest, plaintiff's own allegations and the documents attached to the Fourth Amended Complaint establish that the defendants responded to plaintiff's objections and repeatedly advised plaintiff about the requirements of the policy and the consequences of failing to comply with that policy. The district court was not required to accept as true conclusory allegations that were "contradicted by documents" that plaintiff attached to the complaint. *Warren v. Fox Family Worldwide, Inc.*, 328 F.3d i 136, 1139 (9th Cir. 2003).

Plaintiff's equal protection claim failed because she did not identify any other individuals who were

similarly-situated in all material respects. *SmileDirectClub, LLC v. Tippins*, 31 F.4th 1110, 112:2.-23 (9th Cir. 2022) (setting forth the elements of the claim). Plaintiff's conclusory allegations that the defendants violated her rights do not state a claim. See *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (conclusory allegations listing the elements of a claim do not state a plausible claim).

In any event, plaintiff could not establish that the school district's COVID-19 policy was not rationally related to the school district's stated legitimate public interest of protecting the health and safety of its employees and students. See *Health Freedom Defense Fund, Inc. v. Carvalho*, 148 F.4th 1020, 103 1-33 (9th Cir. 2025) (en banc).

Plaintiff waived her remaining claims in her opening brief. See *Martinez-Serrano v. INS*, 94 F.3d 1256, 1259 (9th Cir. 1996) (holding that issues not

discussed in the body of the opening brief have been waived).

The district court acted within its discretion by dismissing the Fourth Amended Complaint with prejudice. Despite being allowed multiple opportunities to amend, plaintiff failed to allege facts to state plausible claims. The district court had “particularly broad” discretion to deny leave to amend in light of the previous multiple attempts to amend to state a claim. *Chodos v. W. Publ’g Co.*, 292 F.3d 992, 1003 (9th Cir. 2002) (internal quotation marks omitted).

AFFIRMED.

FILED
NOV 07 2025
MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JACQUELYN MILLER,

Plaintiff – Appellant

v.

DYLAN FARRIS, TUSD
Chief Personnel Officer of
Human Resources; et al.,

Defendants – Appellees,

and

UNKNOWN and
TORRANCE
UNIFIED SCHOOL
DISTRICT,
Defendants.

No. 23-55717
D.C. No. 2:21-cv-
09551-SSS-AS
U.S. District Court for
Central California,
Los Angeles

MANDATE

The judgment of this Court, entered October 16,
2025, takes effect this date. This constitutes the
formal mandate of this Court issued pursuant to Rule
41 (a) of the Federal Rules of Appellate Procedure.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

FILED
DEC 04 2025
MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

| | |
|--|---|
| JACQUELYN MILLER, Plaintiff – Appellant v. DYLAN FARRIS, TUSD Chief Personnel Officer of Human Resources; et al., Defendants – Appellees, and UNKNOWN and TORRANCE UNIFIED SCHOOL DISTRICT, Defendants. | No. 23-55717 D.C. No. 2:21-cv- 09551-SSS-AS U.S. District Court for Central California, Los Angeles ORDER |
|--|---|

Before: O'SCANNLAIN, SILVERMAN, and N.R.
SMITH, Circuit Judges.

Appellant's motion to file a late petition for
rehearing and rehearing en banc (Dkt. Entry No. 21)
is DENIED.

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

JACQUELYN MILLER,

Plaintiff,

v.

DYLAN FARRIS, et al.,

Defendants.

Case No. 2:21-cv-09551-
SSS (AS)

**ORDER ACCEPTING
REPORT AND
RECOMMENDATION
OF UNITED STATES
MAGISTRATE
JUDGE**

Pursuant to 28 U.S.C. §636, the Court has reviewed the Fourth Amended Complaint, all of the records herein, and the Report and Recommendation of a United States Magistrate Judge. After having made a de novo determination of the portions of the Report and Recommendation to which Objections were directed, the Court concurs with and accepts the findings and conclusions of the Magistrate Judge.

Plaintiff objects that this case was not properly before the Magistrate Judge and that the District

Judge had a personal bias or prejudice based on past rulings. [Dkt. 139 at 3, 6-7]. This case was properly referred to the Magistrate Judge. See *Washington v. Kijakazi*, 72 F.4th 1 029, 1029 (9th Cir. 2023) (recognizing that Magistrate Judges have the authority to provide reports and recommendations on dispositive pretrial matters). Plaintiff also has not demonstrated personal bias or prejudice based on the District Judge's rulings. See *Liteky v. United States*, 510 U.S. 540, 555 (1994) (recognizing that adverse rulings, standing alone, are insufficient to show that the decisionmaker was biased).

In sum, Plaintiff's Objections do not cause the Court to reconsider its decision to accept the Magistrate Judge's conclusions and recommendations. Accordingly, the Court concurs with and accepts the findings and conclusions of the Magistrate Judge in the Report and Recommendation.

Defendants' Motion to Dismiss is **GRANTED**;
Defendants' Request for Judicial Notice is
GRANTED; Plaintiffs Fourth Amended Complaint is
DISMISSED WITHOUT LEAVE TO AMEND; and
Judgment shall be entered dismissing this action with
prejudice. The Clerk shall serve copies of this Order
and the Magistrate Judge's Report and
Recommendation on Plaintiff.

IT IS SO ORDERED.

DATED: July 28, 2023

“s/”
SUNSHINE S. SYKES
United States District Judge

JS-6

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

JACQUELYN MILLER,

Plaintiff,

v.

DYLAN FARRIS, et al.

Defendants.

Case No. 2:21-cv-09551-
SSS (AS)

JUDGMENT

Pursuant to the Order Accepting Report and
Recommendation of United States Magistrate Judge,
IT IS ADJUDGED that the above-captioned case is
dismissed with prejudice.

IT IS SO ORDERED.

DATED: July 28, 2023

“s/”
SUNSHINE S. SYKES
United States District Judge