

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 20 2018

FOR THE NINTH CIRCUIT

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

KENNETH BERBERICH,

Plaintiff-Appellant,

v.

JOANNA S. KISHNER,

Defendant-Appellee.

No. 17-16476

D.C. No. 2:17-cv-00818-JCM-VCF

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
James C. Mahan, District Judge, Presiding

Submitted September 12, 2018**

Before: LEAVY, HAWKINS, and TALLMAN, Circuit Judges.

Kenneth Berberich appeals from the district court's judgment dismissing his 42 U.S.C. § 1983 action arising from state court proceedings. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's dismissal on the basis of judicial immunity. *Romano v. Bible*, 169 F.3d 1182, 1186 (9th Cir. 1999).

* 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).

We affirm.

The district court properly dismissed Berberich’s action because Judge Kishner is entitled to judicial immunity. *See id.* (“Judges . . . are absolutely immune from damages for acts performed within their judicial capacities.” (emphasis omitted)); *Schucker v. Rockwood*, 846 F.2d 1202, 1204 (9th Cir. 1988) (“A judge loses absolute immunity only when [the judge] acts in the clear absence of all jurisdiction or performs an act that is not judicial in nature.”).

Appellee’s motion to dismiss (Docket Entry No. 30) is denied as moot.

AFFIRMED.