

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 31 2018

FOR THE NINTH CIRCUIT

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

COLLEEN DENISE WALKER,

No. 18-15962

Plaintiff-Appellant,

D.C. No. 3:17-cv-00071-JD

v.

MEMORANDUM*

EMPLOYMENT DEVELOPMENT
DEPARTMENT, California,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of California
James Donato, District Judge, Presiding

Submitted October 22, 2018**

Before: SILVERMAN, GRABER, and GOULD, Circuit Judges.

Colleen Denise Walker appeals pro se from the district court's order dismissing her employment action under Title VII and the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA") alleging discrimination and hostile work environment claims. We have jurisdiction under

* 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).

28 U.S.C. § 1291. We review de novo a dismissal for failure to state a claim under 28 U.S.C. § 1915(e)(2)(B)(ii). *Watison v. Carter*, 668 F.3d 1108, 1112 (9th Cir. 2012). We affirm.

The district court properly dismissed Walker’s action because Walker failed to allege facts sufficient to state a plausible claim for relief. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (to avoid dismissal, “a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face” (citation and internal quotation marks omitted)); *Vasquez v. County of Los Angeles*, 349 F.3d 634, 640-42 (9th Cir. 2004) (elements of discrimination and hostile work environment claims under Title VII); *Leisek v. Brightwood Corp.*, 278 F.3d 895 (9th Cir. 2002) (elements of a discrimination claim under USERRA).

AFFIRMED.