

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 16 2020

FOR THE NINTH CIRCUIT

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

SUSAN A. GONZALES,

No. 19-55391

Plaintiff-Appellant,

D.C. No. 3:19-cv-00241-GPC-KSC

v.

MEMORANDUM*

GWEN GLEASON ROHRER,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of California
Gonzalo P. Curiel, District Judge, Presiding

Submitted April 7, 2020**

Before: TASHIMA, BYBEE, and WATFORD, Circuit Judges.

We grant Gonzales's motion to proceed in forma pauperis.

Susan A. Gonzales appeals pro se from the district court's judgment dismissing her action alleging medical malpractice. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's dismissal for lack of subject

* 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).

matter jurisdiction. *Crum v. Circus Circus Enters.*, 231 F.3d 1129, 1130 (9th Cir. 2000). We affirm.

The district court properly dismissed Gonzales's action for lack of subject matter jurisdiction because Gonzales failed to allege a federal claim or diversity of citizenship in her complaint. *See* 28 U.S.C. §§ 1331, 1332(a); *Rivet v. Regions Bank of La.*, 522 U.S. 470, 475 (1998) (plaintiff must present a federal question on the face of a properly pleaded complaint).

We do not consider documents and facts not presented to the district court. *See United States v. Elias*, 921 F.2d 870, 874 (9th Cir. 1990) ("Documents or facts not presented to the district court are not part of the record on appeal.").

AFFIRMED.