

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 24 2022

FOR THE NINTH CIRCUIT

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

MELODIE DePIERRO,

No. 21-16541

Plaintiff-Appellant,

D.C. No. 2:20-cv-01481-GMN-VCF

v.

MEMORANDUM\*

LAS VEGAS POLICE PROTECTIVE  
ASSOCIATION METRO, INC.; LAS  
VEGAS METROPOLITAN POLICE  
DEPARTMENT,

Defendants-Appellees.

Appeal from the United States District Court  
for the District of Nevada  
Gloria M. Navarro, District Judge, Presiding

Submitted August 17, 2022\*\*

Before: S.R. THOMAS, PAEZ, and LEE, Circuit Judges.

Melodie DePierro appeals from the district court's judgment dismissing her  
42 U.S.C. § 1983 action alleging a First Amendment claim arising out of union

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\* 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). DePierro's request for oral  
argument, set forth in the opening brief, is denied.

membership dues paid to Las Vegas Police Protective Association Metro, Inc. (“union”). We have jurisdiction under 28 U.S.C § 1291. We review de novo a district court’s dismissal for failure to state a claim. *Puri v. Khalsa*, 844 F.3d 1152, 1157 (9th Cir. 2017). We affirm.

The district court properly dismissed DePierro’s First Amendment claim for retrospective relief because the deduction of union membership dues arose from a private membership agreement between union and employee, and “private dues agreements do not trigger state action and independent constitutional scrutiny.” *Belgau v. Inslee*, 975 F.3d 940, 946-49 (9th Cir. 2020), *cert. denied* 141 S. Ct. 2795 (2021) (discussing state action); *see id.* at 950-52 (concluding that the Supreme Court’s decision in *Janus v. American Federation of State, County & Municipal Employees, Council 31*, 138 S. Ct. 2448 (2018), did not extend a First Amendment right to avoid supporting the union and paying union dues that were agreed upon under voluntarily entered membership agreements); *Knutson v. Sirius XM Radio Inc.*, 771 F.3d 559, 565 (9th Cir. 2014) (discussing mutual assent).

DePierro’s claim for prospective relief is moot. DePierro is no longer a member of the union and defendants stopped deducting union membership dues. *See Bain v. Cal. Teachers Ass’n*, 891 F.3d 1206, 1211-14 (9th Cir. 2018) (explaining that plaintiffs’ claims for prospective relief were moot when they resigned their union membership and presented no reasonable likelihood that they

would rejoin the union in the future).

**AFFIRMED.**