

FILED

OCT 24 2022

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BRALA BEVERLY,

Plaintiff-Appellant,

v.

COUNTY OF ORANGE, a public entity,  
erroneously sued and served as Orange  
County Sheriff, in its official capacity;  
ORANGE COUNTY SHERIFF; DOES, 1  
-1000,

Defendants-Appellees.

No. 22-55080

D.C. No.  
8:20-cv-00797-JGB-SP

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
Jesus G. Bernal, District Judge, Presiding

Submitted October 20, 2022\*\*  
San Francisco, California

Before: FERNANDEZ, SILVERMAN, and N.R. SMITH, Circuit Judges.

---

\* 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).

Brala Beverly appeals pro se from the district court's judgment dismissing her first amended complaint with prejudice. She alleged a variety of federal and California claims against Defendant County of Orange arising from her placement in a men's jail. We affirm.

The district court did not err in dismissing Beverly's constitutional claims under 42 U.S.C. § 1983 for failure to adequately allege liability under *Monell v. Department of Social Services*, 436 U.S. 658, 694, 98 S. Ct. 2018, 2037–38 L. Ed. 2d 611 (1978). The district court also did not err in dismissing Beverly's statutory claims. Her claim under Title IX failed because she did not allege discrimination related to an education program. *See Schwake v. Ariz. Bd. of Regents*, 967 F.3d 940, 946 (9th Cir. 2020). Her claim under the Prison Rape Elimination Act, 34 U.S.C. §§ 30301–30309 failed because this act does not provide for a private right of action. *Cf. Alexander v. Sandoval*, 532 U.S. 275, 286–87, 121 S. Ct. 1511, 1519–20, 149 L. Ed. 2d 517 (2001). Her claim under the Violence Against Women Act of 1994, Pub. L. No. 103-322, 108 Stat. 1902 (1994) failed because the civil remedy under 42 U.S.C. § 13981 (now codified at 34 U.S.C. § 12361) was held unconstitutional. *See United States v. Morrison*, 529 U.S. 598, 627, 120 S. Ct. 1740, 1759, 146 L. Ed. 2d. 658 (2000). Beverly's claim under California Penal Code sections 2605 and 2606 failed because the statutes were not in effect when

Beverly was in jail, and they do not apply retroactively. *See Evangelatos v. Superior Court*, 753 P.2d 585, 598 (Cal. 1988). Her claim under the Unruh Civil Rights Act, Cal. Civ. Code § 51, failed because jails are not a “business establishment” within the meaning of the act. *See Carter v. City of Los Angeles*, 169 Cal. Rptr. 3d 131, 144 (Ct. App. 2014); *see also Brennon B. v. Superior Court*, 513 P.3d 971, 984 n.8 (Cal. 2022). Beverly’s claim under the Tom Bane Civil Rights Act, Cal. Civ. Code § 52.1, failed because she did not allege that a government official had the specific intent to violate one of her constitutional rights. *See Hughes v. Rodriguez*, 31 F.4th 1211, 1224 (9th Cir. 2022).

We perceive no abuse of discretion in the district court’s dismissal of the action with prejudice. *See United States v. Corinthian Colls.*, 655 F.3d 984, 995 (9th Cir. 2011); *United States v. Hinkson*, 585 F.3d 1247, 1261–62 (9th Cir. 2009) (en banc). The district court properly accounted for Beverly’s pro se status<sup>1</sup>; it had already granted Beverly leave to amend her complaint and provided guidance to remedy the pleading’s deficiencies, but Beverly failed to follow that advice. *See Abagninin v. AMVAC Chem. Corp*, 545 F.3d 733, 742 (9th Cir. 2008); *cf. Akhtar v. Mesa*, 698 F.3d 1202, 1212 (9th Cir. 2012). The district court had no further obligation to further assist her in drafting an adequate statement of her claims. *See*

---

<sup>1</sup> *See Jacobsen v. Filler*, 790 F.2d 1362, 1364–65, 1364 n.4 (9th Cir. 1986).

*Bias v. Moynihan*, 508 F.3d 1212, 1219 (9th Cir. 2007); *see also* *Byrd v. Maricopa Cnty. Sheriff's Dep't*, 629 F.3d 1135, 1140 (9th Cir. 2011) (en banc). Moreover, the district court reasonably concluded that further leave to amend would be futile because Beverly's claims could not possibly be cured by amendment, and Beverly does not argue otherwise. *See Carrico v. City & County of San Francisco*, 656 F.3d 1002, 1008 (9th Cir. 2011); *see also Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009) (per curiam).

**AFFIRMED.** All pending motions are **DENIED** as unnecessary.