

APR 22 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

AMY ROBERTSON, individually and  
Guardian Ad Litem for RYDER  
ROBERTSON; CURTIS ROBERTSON,  
individually and as Guardian Ad Litem for  
RYDER ROBERTSON,

Plaintiffs - Appellants,

v.

COUNTY OF VENTURA, a political  
entity; JODY KELLER, as an individual  
who is employed by the Ventura County  
Sheriff's Department; WAREHAM, Sgt.,  
as an individual whos is employed by the  
Ventura County Sheriff's Department,  
e/s/a David Wareham; SCOTT  
PETERSON, as an individual who is  
employed by the Ventura County Sheriff's  
Department; DONNA KUENEN, as an  
individual who is employed by the Human  
Services Agency of the County of Ventura,  
e/s/a Donna Kounen; THERESA  
MAYERNIK, as an individual who is  
employed by the Human Services Agency  
of the County of Ventura; HAROLD  
AMER, MD, an individual; NEIL  
KAUFMAN, MD, an individual;

No. 06-55751

D.C. No. CV-05-00389-AHM

MEMORANDUM \*

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\* This disposition is not appropriate for publication and is not precedent  
except as provided by 9th Cir. R. 36-3.

KENNETH WRIGHT, MD, an individual,

Defendants - Appellees.

Appeal from the United States District Court  
for the Central District of California  
A. Howard Matz, District Judge, Presiding

Argued and Submitted April 10, 2008  
Pasadena, California

Before: HALL, T.G. NELSON, and SILVERMAN, Circuit Judges.

Amy and Curtis Robertson, individually and as guardians ad litem for their child, Ryder Robertson, brought this 42 U.S.C. § 1983 action against various defendants based on the temporary removal of Ryder from his parent's custody. The Robertsons appeal the district court's grant of summary judgment in favor of Theresa Mayernik, Ventura County, and the County's employees. They also appeal the dismissal of their claims against Drs. Amer, Kaufman, and Wright. We have jurisdiction pursuant to 28 U.S.C. § 1291. We affirm.

We review the district court's grant of absolute or qualified immunity de novo. *Botello v. Gammick*, 413 F.3d 971, 975 (9th Cir. 2005). We review the district court's grant of summary judgment and dismissal for failure to state a claim de novo. *Woodrum v. Woodward County, Okla.*, 866 F.2d 1121, 1124 (9th Cir. 1989); *Coverdell v. Dep't of Soc. & Health Servs., State of Wash.*, 834 F.2d 758, 761 (9th Cir. 1987).

The district court did not err when it granted summary judgment in favor of Ventura County on the Robertsons' *Monell* claim. The Robertsons did not put forth sufficient evidence that Ventura County ratified the employees' actions. *See Gillette v. Delmore*, 979 F.2d 1342, 1346-47 (9th Cir. 1992).

The district court also properly granted summary judgment in favor of Donna Kuenen, Jody Keller, Theresa Mayernik, David Wareham, and Scott Peterson. Kuenen was entitled to absolute immunity for her actions related to the decision to initiate the detention hearing by filing the Section 300 petition and detention report. *See Beltran v. Santa Clara County*, 514 F.3d 906, 908 (9th Cir. 2008).

Further, Kuenen's other actions and the actions of Keller, Mayernik, Wareham, and Peterson are entitled to qualified immunity. When these defendants were making discretionary decisions that were not similar to prosecutorial decisions, they were entitled to qualified rather than absolute immunity. *See Miller v. Gammie*, 335 F.3d 889, 898 (9th Cir. 2003).

Kuenen and Keller are entitled to qualified immunity because their actions did not violate constitutional rights of which a reasonable person would have known. *See Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982). Mayernik, Wareham, and Peterson are also entitled to qualified immunity because there is no showing that they violated any of the Robertsons' established rights.

Finally, the § 1983 claim was properly dismissed as to Drs. Harold Amer, Neil Kaufman, and Kenneth Wright because these doctors are not state actors. *See Sutton v. Providence St. Joseph Med. Ctr.*, 192 F.3d 826, 835 (9th Cir. 1999). Moreover, there is no showing that any of their actions were improper.

**AFFIRMED.**