

DEC 29 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RUTH H. SUYAT,

Plaintiff - Appellant,

v.

JOHN E. POTTER, Postmaster General,

Defendant - Appellee.

No. 08-15292

D.C. No. CV-06-00476-SOM/KSC

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Hawaii  
Susan Oki Mollway, Chief District Judge, Presiding

Submitted December 15, 2009\*\*

Before: GOODWIN, WALLACE, and FISHER, Circuit Judges.

Ruth H. Suyat appeals pro se from the district court's summary judgment for the United States Postal Service in her action alleging sex discrimination in

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

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

employment, wrongful termination, and underpaid wages. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo, *Vasquez v. County of Los Angeles*, 349 F.3d 634, 639 (9th Cir. 2003), and we affirm.

The district court properly granted summary judgment on Suyat's sex discrimination claim because she failed to present evidence that the Postal Service's legitimate nondiscriminatory reason for selecting a male candidate instead of her for the open sales clerk position was pretext for sex discrimination. *See id.* at 642 (affirming summary judgment for employer on claim of employment discrimination because plaintiff failed to show pretext).

The district court properly granted summary judgment on the wrongful termination and breach of contract claims because Suyat did not show that she was actually appointed to the position and obtained contractual or statutory rights to bring such claims. *See Fed. R. Civ. P. 56(c)*.

**AFFIRMED.**