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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CORAZON S. PASCUAL,

Plaintiff - Appellant,

v.

MICHAEL J. ASTRUE, Commissioner of
Social Security Administration,

Defendant - Appellee.

No. 09-15935

D.C. No. 4:08-cv-02906-SBA

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Saundra B. Armstrong, District Judge, Presiding

Submitted May 25, 2010**

Before: CANBY, THOMAS, and W. FLETCHER, Circuit Judges.

Corazon S. Pascual appeals pro se from the district court's summary judgment in her Title VII and Age Discrimination in Employment Act ("ADEA")

* 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).

action. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Diaz v. Eagle Produce Ltd. P'ship*, 521 F.3d 1201, 1207 (9th Cir. 2008). We affirm.

The district court properly granted summary judgment on Pascual's ADEA claim because she did not raise a triable issue that she was performing her job in a satisfactory manner or that her discharge gave rise to an inference of age discrimination. *Id.* at 1207-08 (to establish a prima facie case under the ADEA a plaintiff must demonstrate that she was (1) at least forty years old, (2) performing her job satisfactorily, and (3) discharged (4) under circumstances giving rise to an inference of age discrimination).

The district court properly granted summary judgment on Pascual's hostile work environment claim because she failed to raise a triable issue regarding whether her supervisor's conduct was sufficiently severe or pervasive to alter the conditions of her employment. *See Surrell v. Cal. Water Serv. Co.*, 518 F.3d 1097, 1108-09 (9th Cir. 2008) (affirming summary judgment on hostile work environment claim under Title VII where the negative comments about plaintiff were not sufficiently severe or pervasive); *see also Sischo-Nownejad v. Merced Comty. Coll. Dist.*, 934 F.2d 1104, 1109 (9th Cir. 1991) (a hostile work environment claim under Title VII or the ADEA requires proof of severe or pervasive and unwelcome verbal or physical harassment because of a plaintiff's

membership in a protected class), *superseded by statute on other grounds as stated in Dominguez-Curry v. Nev. Transp. Dep't*, 424 F.3d 1027, 1041 (9th Cir. 2005).

We do not consider Pascual's claims that are raised for the first time on appeal. *See Foti v. City of Menlo Park*, 146 F.3d 629, 638 (9th Cir. 1998).

Pascual's remaining contentions are unpersuasive.

AFFIRMED.