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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JODY K. GEORGE,

Plaintiff - Appellant,

v.

PATRICK R. DONAHOE, Postmaster
General** ; UNITED STATES POSTAL
SERVICE,

Defendants - Appellees.

No. 10-16266

D.C. No. 1:03-cv-06052-DLB

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Dennis L. Beck, Magistrate Judge, Presiding***

Submitted November 21, 2011****

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

** Patrick R. Donahoe has been substituted for his predecessor, John E. Potter, as Postmaster General under Fed. R. App. P. 43(c)(2).

*** The parties consented to proceed before a magistrate judge. *See* 28 U.S.C. § 636(c).

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

Before: TASHIMA, BERZON, and TALLMAN, Circuit Judges.

Jody K. George appeals pro se from the district court's summary judgment in his employment action alleging discrimination, harassment, and retaliation in violation of Title VII. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Vasquez v. County of Los Angeles*, 349 F.3d 634, 639 (9th Cir. 2004). We may affirm on any ground supported by the record. *Tahoe-Sierra Pres. Council, Inc. v. Tahoe Reg'l Planning Agency*, 322 F.3d 1064, 1076-77 (9th Cir. 2003). We affirm.

The district court properly granted summary judgment as to George's discrimination and retaliation claims because George failed to raise a genuine dispute of material fact as to whether defendants' legitimate, nondiscriminatory reasons for their actions, including removing George from his position, were pretextual. *See Vasquez*, 349 F.3d at 642 (circumstantial evidence of pretext must be specific and substantial).

Summary judgment was proper as to George's harassment claim because George failed to raise a genuine dispute of material fact as to whether defendants' conduct was sufficiently severe or pervasive to alter the conditions of his employment and create an abusive work environment. *See id.* (listing elements of a hostile workplace claim premised on either race or sex); *Ray v. Henderson*, 217

F.3d 1234, 1245 (9th Cir. 2000) (discussing retaliatory harassment).

George's remaining contentions are unpersuasive.

We do not consider George's contentions raised for first time on appeal. *See Smith v. Marsh*, 194 F.3d 1045, 1052 (9th Cir. 1999).

George's request for appointment of counsel is denied.

AFFIRMED.