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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JEROME STRONG, Rev.,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>MERRILL LYNCH,</p> <p>Defendant - Appellee.</p>
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No. 11-15252

D.C. No. 4:10-cv-00031-SBA

MEMORANDUM\*

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

Submitted February 21, 2012\*\*

Before: FERNANDEZ, McKEOWN, and BYBEE, Circuit Judges.

Jerome Strong appeals pro se from the district court’s summary judgment in his employment action alleging race discrimination and harassment in violation of Title VII and the California Fair Employment and Housing Act (“FEHA”). We

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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).

have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Leong v. Potter*, 347 F.3d 1117, 1123 (9th Cir. 2003), and we affirm.

The district court properly granted summary judgment on Strong's race discrimination claim because Strong failed to raise a genuine dispute of material fact as to whether he performed his job satisfactorily, whether similarly situated individuals outside his protected class were treated more favorably, or whether Merrill Lynch's legitimate, nondiscriminatory reasons for its actions were pretextual. *See id.* at 1124-25; *see also Brooks v. City of San Mateo*, 229 F.3d 917, 923 (9th Cir. 2000) (same analysis applies to Title VII and FEHA claims).

The district court properly granted summary judgment on Strong's racial harassment claim because Strong failed to raise a genuine dispute of material fact as to whether the alleged conduct was because of his race or was sufficiently severe or pervasive to alter the conditions of his employment. *See Vasquez v. County of Los Angeles*, 349 F.3d 634, 642-44 (9th Cir. 2004).

Strong's remaining contentions are unpersuasive.

**AFFIRMED.**