

MAY 23 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROBERT McDONALD, Jr.,

Plaintiff - Appellant,

v.

CORRECTIONS CORPORATION OF
AMERICA,

Defendant - Appellee.

No. 11-15440

D.C. No. 2:09-cv-00781-JAT

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
James A. Teilborg, District Judge, Presiding

Submitted May 15, 2012**

Before: CANBY, GRABER, and M. SMITH, Circuit Judges.

Robert McDonald, Jr., appeals pro se from the district court's summary judgment in his employment action alleging, among other claims, disability discrimination and retaliation under the Americans with Disabilities Act. We have

* 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).

jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion a district court's decision to permit successive summary judgment motions.

Hoffman v. Tonnemacher, 593 F.3d 908, 911-12 (9th Cir. 2010). We affirm.

The district court did not abuse its discretion by granting defendant leave to file a second motion for summary judgment because the first motion for summary judgment was resolved by stipulation, not the district court, and because the second motion was neither frivolous nor repetitive. *See id.* at 911 (“[A]llowing a party to file a second motion for summary judgment is logical, and it fosters the ‘just, speedy, and inexpensive’ resolution of suits. . . . [However,] district courts retain discretion to ‘weed out frivolous or simply repetitive motions.’” (citations omitted)).

McDonald's remaining contentions, including those concerning prejudice to him, are unpersuasive.

We do not consider matters not specifically and distinctly raised and argued in the opening brief. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009) (per curiam).

AFFIRMED.