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U.S. COURT OF APPEALS

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| KEVIN R. SMITH,<br><br>Plaintiff - Appellant,<br><br>v.<br><br>UNITED PARCEL SERVICE, INC.,<br><br>Defendant - Appellee. | No. 12-15012<br><br>D.C. No. 2:08-cv-01313-RCJ<br><br>MEMORANDUM* |

Appeal from the United States District Court
for the District of Nevada
Robert C. Jones, District Judge, Presiding

Submitted January 13, 2014**
San Francisco, California

Before: GRABER and NGUYEN, Circuit Judges, and DEARIE,*** Senior District Judge.

Plaintiff Kevin Smith appeals the district court's grant of summary judgment to defendant United Parcel Services, Inc. ("UPS"). We review de novo and may

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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. Fed. R. App. P. 34(a)(2).

*** The Honorable Raymond J. Dearie, Senior United States District Judge for the Eastern District of New York, sitting by designation.

affirm on any ground supported by the record. Petroliam Nasional Berhad v. GoDaddy.com, Inc., 737 F.3d 546, 549 (9th Cir. 2013). Upon review, we affirm for the reasons set forth below.

In Nevada, an employer has a general duty to use reasonable care to ensure that an employee is properly trained and supervised in the performance of his or her position. Vinci v. Las Vegas Sands, Inc., 984 P.2d 750, 751 (Nev. 1999); Hall v. SSF, Inc., 930 P.2d 94, 99 (Nev. 1996). As to supervision, Smith's deposition testimony shows that his supervisors at UPS took reasonable and proportionate steps to address his complaints about other employees. As to training, UPS put forward evidence that it promulgated anti-harassment policies to its employees and trained its supervisors regarding harassment, and there is nothing in the record to suggest that the training or policies were deficient. Even drawing all reasonable inferences in Smith's favor, the record will not support the conclusion that UPS breached its duty of care. Summary judgment was proper because Smith failed to raise a triable issue of fact. Celotex Corp. V. Catrett, 477 U.S. 317, 322-23 (1986).

**AFFIRMED.**