

JUL 31 2014

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARSHALL JOHNSON,  
  
Plaintiff - Appellant,  
  
v.  
  
LOCKHEED MARTIN,  
  
Defendant - Appellee.

No. 12-16808

D.C. No. 5:11-cv-01140-LHK

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
Lucy H. Koh, District Judge, Presiding

Submitted July 22, 2014\*\*

Before: GOODWIN, CANBY, and CALLAHAN, Circuit Judges.

Marshall Johnson appeals from the district court's summary judgment in his employment action alleging racial discrimination in violation of federal and state law. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Hawn v. Exec. Jet Mgmt., Inc.*, 615 F.3d 1151, 1155 (9th Cir. 2010), and we affirm.

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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).

The district court properly granted summary judgment on Johnson’s racial discrimination claims under Title VII and California’s Fair Employment and Housing Act (“FEHA”) because Johnson failed to raise a genuine dispute of material fact as to whether defendant’s legitimate, non-discriminatory reasons for his layoff were pretextual. *See Vasquez v. County of Los Angeles*, 349 F.3d 634, 640-42 & n.5 (9th Cir. 2003) (discussing elements of a discrimination claim under Title VII and explaining that circumstantial evidence of pretext must be specific and substantial); *see also Metoyer v. Chassman*, 504 F.3d 919, 941 (9th Cir. 2007) (“California courts apply the Title VII framework to claims brought under FEHA.”).

The district court properly granted summary judgment on Johnson’s claim that he was wrongfully terminated in violation of public policy because Johnson failed to raise a triable dispute as to his racial discrimination claim. *See Sanders v. Arneson Prods., Inc.*, 91 F.3d 1351, 1354 (9th Cir. 1996) (affirming summary judgment on public policy claim based on anti-discrimination law where plaintiff failed to raise triable dispute as to discrimination claim).

**AFFIRMED.**