

MAY 29 2015

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RANDEL LANE,

Plaintiff - Appellant,

v.

CLARK COUNTY,

Defendant - Appellee.

No. 13-15471

D.C. No. 2:11-cv-00485-JCM-
NJK

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
James C. Mahan, District Judge, Presiding

Argued and Submitted May 14, 2015
San Francisco, California

Before: PAEZ and CLIFTON, Circuit Judges and DUFFY,** District Judge.

Randel Lane (“Lane”) appeals the district court’s grant of Clark County’s motion for summary judgment under the Americans with Disabilities Act, 42

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

** The Honorable Kevin Thomas Duffy, District Judge for the U.S. District Court for the Southern District of New York, sitting by designation.

U.S.C. § 12101, *et seq.* (“ADA”). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

1. We review *de novo* a district court’s ruling granting summary judgment.

Humphrey v. Mem’l Hosps. Ass’n, 239 F.3d 1128, 1133 (9th Cir. 2001). We must

determine, viewing the evidence in the light most favorable to Lane, the

nonmoving party, whether there are any genuine issues of material fact, and

whether the district court correctly applied the relevant substantive law. *Olsen v.*

Idaho State Bd. of Med., 363 F.3d 916, 922 (9th Cir. 2004). We may affirm on any

ground supported by the record. *Id.*

2. Here, Lane was not a “qualified individual,” 42 U.S.C. § 12112(a), because

he could not “perform the essential functions of [his] employment position” “with

or without reasonable accommodation.” *Id.* § 12111(8); 29 C.F.R. § 1630.2(m).

Regular presence can be considered an essential function of one’s job. *See Samper*

v. Providence St. Vincent Med. Ctr., 675 F.3d 1233, 1237-39 (9th Cir. 2012).

Lane’s position was one such instance, rather than “the unusual case where an

employee can effectively perform all work-related duties at home.” *Id.* at 1239.

Because nothing in the record indicates that Lane could be present regularly with

or without reasonable accommodation, there was no genuine factual dispute. The

district court correctly determined that Lane was not a qualified individual.

AFFIRMED.