

JUL 31 2015

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

NORMAN KATZ, pro se,

Plaintiff - Appellant,

v.

JACOB J. LEW, Secretary of the Treasury,

Defendant - Appellee.

No. 13-15654

D.C. No. 1:09-cv-00599-ACK-
RLP

MEMORANDUM*

Appeal from the United States District Court
for the District of Hawaii
Alan C. Kay, District Judge, Presiding

Submitted July 21, 2015**

Before: CANBY, BEA, and MURGUIA, Circuit Judges.

Norman Katz appeals pro se from the district court's judgment, following a four-day bench trial, in his action alleging disability discrimination and failure to reasonably accommodate claims under the Rehabilitation Act of 1973 ("Rehabilitation Act"). We have jurisdiction under 28 U.S.C. § 1291. We review

* 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).

for clear error, *Lentini v. Cal. Ctr. for the Arts, Escondido*, 370 F.3d 837, 843 (9th Cir. 2004), and we affirm.

The district court did not clearly err in finding that Katz failed to prove by a preponderance of the evidence that the IRS did not provide him reasonable accommodations for his disability and that Katz was terminated because of his disability. *See Humphrey v. Mem. Hosps. Ass'n*, 239 F.3d 1128, 1137, 1139 (9th Cir. 2001) (stating elements of reasonable accommodation and unlawful discharge claims). Katz's contentions that the district court applied an incorrect "reasonable accommodation" standard, or failed to identify the cause of Katz's termination, are without merit.

Because Katz did not include the trial transcript for any other error at trial that he raises on appeal, we do not consider these errors. *See Fed. R. App. P. 10(b)(2); Syncom Capital Corp. Ctr. v. Wade*, 924 F.2d 167, 169 (9th Cir. 1991) (dismissing appeal of pro se appellant who did not provide relevant trial transcripts).

We do not consider issues or arguments not specifically and distinctly raised and argued in the opening brief, or arguments and allegations raised for the first

time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009) (per curiam).

AFFIRMED.