

FILED

JUN 13 2016

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARIA FERIA,

Plaintiff - Appellant,

v.

DEVRY UNIVERSITY, INC.,
Erroneously Sued As DeVry Inc,

Defendant - Appellee.

No. 14-56166

D.C. No. 2:13-cv-02111-R-VBK

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Manuel L. Real, District Judge, Presiding

Submitted June 9, 2016**
Pasadena, California

Before: GOULD and HURWITZ, Circuit Judges, and RESTANI,*** Judge.

Maria Feria (“Feria”) appeals the district court’s grant of summary judgment in favor of DeVry University, Inc. (“DeVry”). We have jurisdiction pursuant to 28

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

** The panel unanimously concludes that this case is suitable for decision without oral argument. Fed. R. App. P. 34(a)(2).

*** The Honorable Jane A. Restani, Judge for the United States Court of International Trade, sitting by designation.

U.S.C. § 1291. We review the grant of summary judgment de novo, construing the facts and drawing reasonable inferences in favor of the nonmoving party. Earl v. Nielsen Media Res., Inc., 658 F.3d 1108, 1112 (9th Cir. 2011).

1. The district court properly entered summary judgment on the wrongful termination in violation of public policy claim. Feria failed to allege sufficient facts that she was actually or constructively discharged. See Turner v. Anheuser-Busch, Inc., 876 P.2d 1022, 1025, 1027, 1030 (Cal. 1994).

2. The district court properly entered summary judgment on the California Labor Code §§ 1102.5(b) and (c) claims. Feria was not subjected to an actionable adverse employment action, primarily because she was not actually or constructively discharged. See Yanowitz v. L’Oreal USA, Inc., 116 P.3d 1123, 1142–43 (Cal. 2005) (defining adverse employment action); see also Edgerly v. City of Oakland, 150 Cal. Rptr. 3d 425, 430–31 (Ct. App. 2012); Mokler v. Cty. of Orange, 68 Cal. Rptr. 3d 568, 580 (Ct. App. 2007). Feria has also not met the statutory requirements because she made only an internal complaint, rather than filing a report with “a government or law enforcement agency.” Cal. Lab. Code § 1102.5(b) (2003). Thus, there is no genuine dispute of material fact and the district court properly granted summary judgment.

AFFIRMED.