

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 31 2018

FOR THE NINTH CIRCUIT

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

STEPHEN S. EDWARDS,

No. 17-15642

Plaintiff-Appellant,

D.C. No. 2:16-cv-00014-DKD

v.

MEMORANDUM*

BEST BUY COMPANY OF MINNESOTA,
INC.; BESTBUY.COM, LLC,

Defendants-Appellees.

Appeal from the United States District Court
for the District of Arizona
David K. Duncan, Magistrate Judge, Presiding**

Submitted October 22, 2018***

Before: SILVERMAN, GRABER, and GOULD, Circuit Judges.

Stephen S. Edwards appeals pro se from the district court's summary judgment in his diversity action alleging state law tort claims stemming from an

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The parties consented to proceed before a magistrate judge. *See* 28 U.S.C. § 636(c).

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

alleged sexual assault. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Lopez v. Smith*, 203 F.3d 1122, 1131 (9th Cir. 2000) (en banc). We affirm.

The district court properly granted summary judgment because Edwards failed to raise a genuine dispute of material fact as to whether defendants were vicariously liable for their employee's conduct. *See Pruitt v. Pavelin*, 685 P.2d 1347, 1357 (Ariz. Ct. App. 1984) (Arizona observes the general common law rule that "an employer is vicariously liable only for the behavior of an employee who was acting within the scope of his employment"); *see also Arizona v. Schallock*, 941 P.2d 1275, 1282-84 (Ariz. 1997) (en banc) (discussing factors courts evaluate to determine whether an employee acted within the course and scope of his employment).

We reject as without merit Edwards's contentions that the district court was biased against him.

All pending requests and motions are denied.

AFFIRMED.