

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 16 2020

FOR THE NINTH CIRCUIT

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

BARBARA ANN PRICE,

No. 19-16749

Plaintiff-Appellant,

D.C. No. 4:18-cv-02793-HSG

v.

MEMORANDUM*

BLUE AND GOLD FLEET,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of California
Haywood S. Gilliam, Jr., District Judge, Presiding

Submitted November 9, 2020**

Before: THOMAS, Chief Judge, TASHIMA and W. FLETCHER, Circuit Judges.

Barbara Ann Price appeals pro se from the district court's summary judgment in her employment action alleging violations of Title VII and the Age Discrimination in Employment Act ("ADEA"). We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Am. Tower Corp. v. City of San Diego*, 763

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

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

F.3d 1035, 1043 (9th Cir. 2014). We affirm.

The district court properly granted summary judgment because Price failed to raise a genuine dispute of material fact as to whether defendant's legitimate, nondiscriminatory reason for taking adverse action against Price was pretextual. *See Wallis v. J.R. Simplot Co.*, 26 F.3d 885, 888-91 (9th Cir. 1994) (burden-shifting framework applies to discrimination claims under Title VII and the ADEA; circumstantial evidence of pretext must be specific and substantial).

We reject as unsupported by record Price's contention that defendant failed to engage in discovery in a proper manner.

We do not consider matters 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).

AFFIRMED.