

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 27 2026

FOR THE NINTH CIRCUIT

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

MARCUS DUKES,

Plaintiff - Appellant,

v.

COMPARION INSURANCE AGENCY,
LLC, improperly identified as Liberty
Mutual Auto and Home Services LLC in
district court,

Defendant - Appellee,

and

LIBERTY MUTUAL INSURANCE
COMPANY, LIBERTY MUTUAL GROUP
INC.,

Defendants.

No. 25-1445

D.C. No. 2:23-cv-01254-JAT

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
James A. Teilborg, District Judge, Presiding

Submitted August 25, 2026**

* 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).

Before: SILVERMAN, N.R. SMITH, and DE ALBA, Circuit Judges.

Marcus Dukes appeals pro se from the district court's summary judgment in his employment action alleging hiring discrimination in violation of the Age Discrimination in Employment Act ("ADEA"). We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Caldrone v. Circle K Stores Inc.*, 156 F.4th 952, 956 (9th Cir. 2025). We affirm.

The district court properly granted summary judgment because Dukes failed to raise a genuine dispute of material fact as to whether defendant's legitimate, non-discriminatory reason for not hiring Dukes was pretextual. *See Diaz v. Eagle Produce Ltd. P'ship*, 521 F.3d 1201, 1207 (9th Cir. 2008) (applying burden-shifting framework of *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973) to ADEA claims); *Cotton v. City of Alameda*, 812 F.2d 1245, 1247-48 (9th Cir. 1987) (listing the elements of a prima facie failure-to-hire claim under the ADEA).

The motion (Docket Entry No. 22) by Sarah K. Watt to withdraw as counsel is granted. All other pending motions and requests are denied.

AFFIRMED.