

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 1 2026

FOR THE NINTH CIRCUIT

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

KARSTEN OLIVA,

Plaintiff - Appellant,

v.

HAWAI'I COUNTY DEPARTMENT OF
PARKS & RECREATION; MAURICE
MESSINA; MITCH ROTH, Mayor of
Hawai'i; LEE LORD; VICTOR
McDANIEL,

Defendants - Appellees.

No. 25-2571

D.C. No. 1:23-cv-00477-DKW-KJM

MEMORANDUM*

Appeal from the United States District Court
for the District of Hawaii
Derrick Kahala Watson, District Judge, Presiding

Submitted August 25, 2026**

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

* 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). Oliva's request for a hearing, set forth in the reply brief, is denied.

Karsten Oliva appeals pro se from the district court’s summary judgment in his employment action alleging claims under Title VII of the Civil Rights Act of 1964 (“Title VII”), the Age Discrimination in Employment Act (“ADEA”), and state law. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Opara v. Yellen*, 57 F.4th 709, 721 (9th Cir. 2023). We affirm.

The district court properly granted summary judgment on Oliva’s national origin and age discrimination claims based on his 2023 job application because Oliva failed to raise a genuine dispute of material fact as to whether defendants’ proffered legitimate, non-discriminatory reason for refusing to hire him was pretextual. *See id.* at 721-24, 728-29 (setting forth burden-shifting framework for Title VII and ADEA discrimination claims and explaining that mere conclusory allegations are insufficient to raise a triable dispute regarding an employer’s motive).

The district court properly granted summary judgment on Oliva’s claims alleging retaliation under Title VII and the ADEA and discrimination claims based on events prior to June 2023 because Oliva failed to exhaust his administrative remedies as to those claims. *See Forester v. Chertoff*, 500 F.3d 920, 924 (9th Cir. 2007) (explaining that ADEA claims against private or state employers must be exhausted); *B.K.B. v. Maui Police Dep’t*, 276 F.3d 1091, 1099-1100 (9th Cir. 2002) (explaining that Title VII plaintiffs must exhaust administrative remedies by

filing a timely EEOC or state agency charge, and allegations not included in an EEOC charge “may not be considered by a federal court unless the new claims are like or reasonably related to the allegations contained in the EEOC charge” (citations and internal quotation marks omitted)), *abrogated on other grounds by Fort Bend County, Tex. v. Davis*, 587 U.S. 541 (2019).

The district court properly granted summary judgment on Oliva’s state law claims for failure to supervise and defamation because Oliva failed to raise a genuine dispute of material fact as to whether he complied with state and county notice requirements. *See Oakley v. State*, 505 P.2d 1182, 1184-86 (Haw. 1973) (explaining that the Hawaii Revised Statutes and the Hawaii County Charter require written notice be provided to the county before an individual may recover for personal injuries).

We reject as meritless Oliva’s contention that the district court’s failure to hold a hearing on the motion for summary judgment violated his due process rights. *See Toquero v. INS*, 956 F.2d 193, 196 n.4 (9th Cir. 1992) (noting that “it is well settled that oral argument is not necessary to satisfy due process”).

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).

The motion (Docket Entry No. 5) to transmit physical exhibits is denied.

AFFIRMED.