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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

EUGENE ROBICHAUD,

Plaintiff - Appellant,

v.

COUNTY OF CLARK,

Defendant - Appellee.

No. 07-16793

D.C. No. CV-05-00541-ECR

MEMORANDUM *

Appeal from the United States District Court
for the District of Nevada
Edward C. Reed, District Judge, Presiding

Submitted January 14, 2009**
San Francisco, California

Before: BRIGHT, *** HUG, and REINHARDT, Circuit Judges.

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

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

*** The Honorable Myron H. Bright, Senior United States Circuit Judge for the Eighth Circuit, sitting by designation.

Eugene Robichaud appeals the district court's summary judgment in favor of Clark County for claimed violations of Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act (ADEA), and 42 U.S.C. § 1983. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review the district court's grant of summary judgment de novo, *Davis v. Team Elec. Co.*, 520 F.3d 1080, 1088 (9th Cir. 2008), and we affirm.

The district court properly granted summary judgment on Robichaud's Title VII and ADEA claims because Robichaud has not raised a genuine issue of material fact that the County's proffered reasons for its employment decision were a pretext for discrimination. *See Diaz v. Eagle Produce Ltd. P'ship*, 521 F.3d 1201, 1212 (9th Cir. 2008); *Cornwell v. Electra Cent. Credit Union*, 439 F.3d 1018, 1028 (9th Cir. 2006). This failure to establish intentional discrimination under Title VII and the ADEA necessarily eviscerates his § 1983 claims based on the same conduct. *See Sischo-Nownejad v. Merced Cmty. Coll. Dist.*, 934 F.2d 1104, 1112 (9th Cir. 1991).

Robichaud also appeals the district court's grant of summary judgment for the County on his state law claim of negligent supervision. This claim is "based on the County's unreasonable failure to properly train its employees, including those in Human Resources, to not engage in discriminatory conduct." Upon de novo review of the state law at issue, *see Emrich v. Touche Ross & Co.*, 846 F.2d 1190,

1198 (9th Cir. 1988), we conclude that Nevada does recognize the tort of negligent supervision. *See Hall v. SSF, Inc.*, 930 P.2d 94, 99 (Nev. 1996). However, it is unclear whether the State would impose liability for negligent supervision resulting in unlawful discrimination. Even if Nevada would impose liability under such circumstances, summary judgment was properly granted because Robichaud has failed to raise a genuine issue of material fact showing that any County employee discriminated against him.

AFFIRMED.