UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

DEC 22 2016

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

TIMOTHY LUCKEY,	No. 15-17507
Plaintiff-Appellant,	D.C. No. 1:13-cv-00332-AWI-SAB
v.	
VISALIA UNIFIED SCHOOL DISTRICT,	MEMORANDUM[*]
Defendant-Appellee.	

Appeal from the United States District Court
for the Eastern District of California
Anthony W. Ishii, District Judge, Presiding

Submitted December 14, 2016[**]

Before: WALLACE, LEAVY, and FISHER, Circuit Judges.

Timothy Luckey appeals pro se from the district court's judgment in his

Title VII action alleging discrimination and retaliation. We have jurisdiction

under 28 U.S.C. § 1291. We affirm.

In an order screening Luckey's third amended complaint, the magistrate

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[*]   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).

judge found the complaint only included Title VII discrimination and retaliation claims and did not include a breach of contract claim.   Luckey waived his right to appeal the magistrate judge's order because Luckey failed to file a timely objection to it. *See Simpson v. Lear Astronics Corp.*, 77 F.3d 1170, 1174 (9th Cir. 1996) ("[A] party who fails to file timely objections to a magistrate judge's nondispositive order with the district judge to whom the case is assigned forfeits its right to appellate review of that order."). Thus, we do not consider Luckey's arguments regarding his breach of contract claim.

We do not consider Luckey's Title VII discrimination and retaliation claims because Luckey does not challenge the district court's summary judgment in his opening brief. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009) (court does not consider matters not specifically and distinctly raised and argued in the opening brief).

AFFIRMED.