

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 22 2019

FOR THE NINTH CIRCUIT

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

EDWARD WIN,

Plaintiff-Appellant,

v.

COUNTY OF SANTA CLARA,

Defendant-Appellee,

and

LAURA SALAS,

Defendant.

No. 18-17253

D.C. No. 5:18-cv-00840-LHK

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Lucy H. Koh, District Judge, Presiding

Submitted July 15, 2019**

Before: SCHROEDER, SILVERMAN, and CLIFTON, Circuit Judges.

Edward Win appeals pro se from the district court's judgment dismissing his

* 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).

employment discrimination action arising out of defendants' failure to hire. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). *Gibson v. Office of Att'y. Gen., State of Cal.*, 561 F.3d 920, 925 (9th Cir. 2009). We affirm.

The district court properly dismissed Win's action because Win failed to allege sufficient facts to show that he was a member of a protected class and that defendants failed to hire him based on his membership in a protected class. *See Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009) (a plaintiff fails to show he or she is entitled to relief if the complaint's factual allegations do not "permit the court to infer more than the mere possibility of [the alleged] misconduct"); *Dominguez-Curry v. Nev. Transp. Dep't*, 424 F.3d 1027, 1037 (9th Cir. 2005) (setting forth the elements of a Title VII employment discrimination claim).

We do not consider matters not specifically and distinctly raised and argued in the opening brief. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

Win's contentions that defendants improperly influenced the district court and that the district court was biased are unpersuasive.

All pending motions and requests are denied.

AFFIRMED.