

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 3 2020

FOR THE NINTH CIRCUIT

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

RICKY KAMDEM-OUAFFO, PhD,

No. 18-35217

Plaintiff-Appellant,

D.C. No. 4:15-cv-00129-BLW

v.

MEMORANDUM*

IDAHOAN FOODS, LLC,

Defendant-Appellee.

Appeal from the United States District Court
for the District of Idaho
B. Lynn Winmill, District Judge, Presiding

Submitted December 31, 2019**

Before: FARRIS, TROTT, and SILVERMAN, Circuit Judges.

Ricky Kamdem-Ouaffo, PhD, appeals pro se from the district court's summary judgment in his employment action alleging federal and state law claims.

We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion. *Wong v. Regents of University of California*, 410 F.3d 1052, 1060 (9th

* 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).

Cir. 2005). We may affirm on any basis supported by the record. *Kohler v. Bed Bath & Beyond of Cal., LLC*, 780 F.3d 1260, 1263 (9th Cir. 2015). We affirm.

Kamdem-Ouaffo argues the district court abused its discretion by refusing to consider the screenshots of his spam e-mail folder. We disagree. The screenshot references are undated and do not refer to any particular position for which he says he applied. Moreover, the screenshots do not mention Idahoan as the company to which he claims they refer, and they are not accompanied by the applications to which he alleges they respond.

Kamdem-Ouaffo further argues that the district court abused its discretion by considering evidence concerning defendant's applicant tracking system. We disagree. Information concerning this system was properly disclosed by defendant during discovery, and Kamdem-Ouaffo did not bring a motion to compel any additional disclosure. *See Helfand v. Gerson*, 105 F.3d 530, 536 (9th Cir. 1997) (explaining that the plaintiff waived their challenge to defendant's discovery objection by failing to bring a motion to compel); *see also Lane v. Dep't of Interior*, 523 F.3d 1128, 1134 (9th Cir. 2008) ("A district court has wide latitude in controlling discovery, and its rulings will not be overturned in absence of a clear abuse of discretion." (citation and internal quotation marks omitted)).

Kamdem-Ouaffo's request to strike portions of Dubreuil's declaration, set forth in his opening brief, is denied.

This court has received from the district court complete copies of the exhibits attached to Kamdem-Ouaffo's complaint and summary judgment opposition. The clerk shall file these exhibits, submitted at Docket Entry No. 28.

Kamdem-Ouaffo's motion to file an oversized brief (Docket Entry No. 21) is granted in part. The clerk shall file Kamdem-Ouaffo's reply brief submitted at Docket Entry No. 22. The remainder of this motion, and all other pending motions, are denied.

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).

AFFIRMED.