

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

TERRIA MCKNIGHT,

Plaintiff,

v.

NEVADA DEPARTMENT OF HEALTH
AND HUMAN SERVICES, DIVISION OF
WELFARE AND SUPPORTIVE
SERVICES, *et al.*,

Defendants.

Case No. 3:17-cv-00483-MMD-CLB

ORDER

I. SUMMARY

Plaintiff Terria McKnight brings this action *pro se* based on events that occurred during a state administrative hearing (“Hearing”) to determine her eligibility for Supplemental Nutritional Assistance Program (“SNAP”) benefits. (ECF No. 6.) Before the Court is Defendant State of Nevada *ex rel.* Nevada Department of Health and Human Services, Division of Welfare and Supportive Services (“DWSS”)’s motion for summary judgment (“Motion”) filed on October 23, 2019. (ECF No. 45.) To date, Plaintiff has not responded. For the following reasons, the Court grants the Motion.

II. BACKGROUND

The relevant background facts are adapted from Plaintiff’s Second Amended Complaint (“SAC”) (ECF No. 15) and the undisputed facts presented in the Motion (ECF No. 45) unless otherwise noted.

Plaintiff alleges that she is a disabled individual who resides in Lyon County, Nevada. (ECF No. 15 at 2, 10.) Plaintiff submitted a SNAP redetermination application requesting SNAP benefits in March 2017. (*Id.* at 4.) Plaintiff attended an in-person interview with DWSS in Yerington. (*Id.* at 5.) When the interviewer entered expenses into

1 the computer, the interviewer refused to enter medical and shelter costs even though
2 Plaintiff pays other necessary household and personal expenses. (*Id.*) DWSS sent
3 Plaintiff an insufficient information request on March 29, 2017, showing that her shelter
4 expenses were never considered. (*Id.*)

5 Plaintiff filed an appeal and participated in the Hearing by telephone. (*Id.*) The
6 Hearing was adversarial in nature but did not incorporate rules of evidence. (ECF No. 30
7 at 6.) Plaintiff, in gist, contends that she was not provided with relevant documents
8 sufficiently in advance for her to review, those involved were reading the documents too
9 fast, and the way the Hearing was held affected her ability to think clearly, read and
10 concentrate due to her disability. (ECF No. 15 at 5-7, 11.) DWSS subsequently affirmed
11 its earlier decision. (*Id.* at 6.)

12 Following screening, the Court permitted Plaintiff to proceed on a claim for violation
13 of the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.* (“ADA Title II”), against
14 DWSS and the DWSS Administrative Adjudication Office (“AAO¹”).² (ECF No. 14 at 3.)

15 **III. LEGAL STANDARD**

16 “The purpose of summary judgment is to avoid unnecessary trials when there is
17 no dispute as to the facts before the court.” *Nw. Motorcycle Ass’n v. U.S. Dep’t of Agric.*,
18 18 F.3d 1468, 1471 (9th Cir. 1994). Summary judgment is appropriate when the
19 pleadings, the discovery and disclosure materials on file, and any affidavits “show there
20 is no genuine issue as to any material fact and that the movant is entitled to judgment as
21 a matter of law.” *Celotex Corp. v. Catrett*, 477 U.S. 317, 330 (1986). An issue is “genuine”
22 if there is a sufficient evidentiary basis on which a reasonable fact-finder could find for the
23 nonmoving party, and a dispute is “material” if it could affect the outcome of the suit under
24 the governing law. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248-49 (1986). Where

25
26 ¹The Motion is filed by DWSS but the AAO is within the DWSS; accordingly, the Court construes the Motion as being asserted on behalf of AAO as well.

27 ²Plaintiff was also permitted to proceed with a due process claim against the
28 individuals who participated in the Hearing: Sarah Polier, Lori Kreck, and Kari Yelenich. (ECF No. 15.) However, the Court found these defendants are entitled to qualified immunity and granted their motion to dismiss. (ECF No. 43 at 5-6.)

1 reasonable minds could differ on the material facts at issue, however, summary judgment
2 is not appropriate. See *id.* at 250-51. “The amount of evidence necessary to raise a
3 genuine issue of material fact is enough ‘to require a jury or judge to resolve the parties’
4 differing versions of the truth at trial.” *Aydin Corp. v. Loral Corp.*, 718 F.2d 897, 902 (9th
5 Cir. 1983) (quoting *First Nat’l Bank v. Cities Service Co.*, 391 U.S. 253, 288-89 (1968)).
6 In evaluating a summary judgment motion, a court views all facts and draws all inferences
7 in the light most favorable to the nonmoving party. See *Kaiser Cement Corp. v. Fishbach*
8 *& Moore, Inc.*, 793 F.2d 1100, 1103 (9th Cir. 1986).

9 The moving party bears the burden of showing that there are no genuine issues of
10 material fact. See *Zoslaw v. MCA Distrib. Corp.*, 693 F.2d 870, 883 (9th Cir. 1982). Once
11 the moving party satisfies Rule 56’s requirements, the burden shifts to the party resisting
12 the motion to “set forth specific facts showing that there is a genuine issue for trial.”
13 *Anderson*, 477 U.S. at 256. The nonmoving party “may not rely on denials in the pleadings
14 but must produce specific evidence, through affidavits or admissible discovery material,
15 to show that the dispute exists,” *Bhan v. NME Hosps., Inc.*, 929 F.2d 1404, 1409 (9th Cir.
16 1991), and “must do more than simply show that there is some metaphysical doubt as to
17 the material facts.” *Orr v. Bank of Am.*, 285 F.3d 764, 783 (9th Cir. 2002) (quoting
18 *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986)). “The mere
19 existence of a scintilla of evidence in support of the plaintiff’s position will be insufficient.”
20 *Anderson*, 477 U.S. at 252.

21 **IV. DISCUSSION**

22 Defendant’s primary argument is that Plaintiff fails to establish the elements of her
23 ADA Title II claim. (ECF No. 45 at 8-12.) The Court agrees based on the undisputed
24 evidence presented in the Motion.

25 “To prove that a public program or service violated Title II of the ADA, a plaintiff
26 must show: (1) [s]he is a qualified individual with a disability; (2) [s]he was either excluded
27 from participation in or denied the benefits of a public entity’s services, programs, or
28 activities, or was otherwise discriminated against by the public entity; and (3) such

1 exclusion, denial, or benefits, or discrimination was by reason of [her] disability.” *Duvall*
2 *v. Cty. of Kitsap*, 260 F.3d 1124, 1135 (9th Cir. 2001).

3 Defendant argues that Plaintiff fails to offer evidence during discovery to support
4 the first element. (ECF No. 45 at 9-10.) The ADA defines “qualified individual with a
5 disability” as “an individual with a disability who, with or without reasonable modifications
6 to rules, policies, or practices, the removal of architectural, communication, or
7 transportation barriers, or the provision of auxiliary aids and services, meets the essential
8 eligibility requirements for the receipt of services or the participation in programs or
9 activities provided by a public entity.” 42 U.S.C. § 12131(2). A disability is “a physical or
10 mental impairment that substantially limits one or more major life activities of” the
11 individual, or “a record of such an impairment,” or “being regarded as having such an
12 impairment.” 42 U.S.C. § 12102(1).

13 Plaintiff alleges in the SAC that she has bipolar disorder. (ECF No. 15 at 3.)
14 However, in response to Defendant’s interrogatory about her disability, Plaintiff essentially
15 responded that the Court found her to have a qualified disability. (ECF No. 40 at 8.) But
16 the Court made no such finding. To the contrary, in the Court’s earlier order, the Court
17 noted that it is unclear whether Plaintiff’s disability for SNAP purposes as alleged in her
18 initial complaint—bipolar disorder and obesity—qualifies as disabilities under the ADA.
19 (ECF No. 5 at 11 n.10; *see also* ECF No. 1-1 at 2.) Plaintiff offers no evidence that her
20 bipolar disorder meets any of the three definition of disability under § 12102(1), let alone
21 that she is a qualified individual.

22 Defendant further argues that Plaintiff offers no evidence of discrimination. (ECF
23 No. 45 at 10-12.) Having reviewed Plaintiff’s response to Defendant’s interrogatory (ECF
24 No. 45-1 at 118) and absent any response to the Motion, the Court agrees that Plaintiff
25 offers no evidence to support her allegations that the SNAP benefits were denied due to
26 disability discrimination.

27 **V. CONCLUSION**

28 The Court notes that the parties made several arguments and cited to several

1 cases not discussed above. The Court has reviewed these arguments and cases and
2 determines that they do not warrant discussion as they do not affect the outcome of the
3 motion before the Court.

4 It is therefore ordered that Defendant's motion for summary judgment (ECF No.
5 45) is granted.

6 The Clerk of Court is directed to enter judgment in favor of the two remaining
7 defendants in accordance with this order and close this case.

8 DATED THIS 17th day of April 2020.



10
11 MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE

9
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28