

DEC 10 2007

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

GARY W. SETTLE,

Plaintiff - Appellant,

v.

PRESCOTT UNIFIED SCHOOL
DISTRICT,

Defendant - Appellee.

No. 06-17337

D.C. No. CV-05-02471-MEA

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Mark E. Aspey, Magistrate Judge, Presiding**

Submitted December 3, 2007***

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

Gary W. Settle appeals pro se from the district court's summary judgment for Prescott Unified School District in his Americans with Disabilities Act

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

** The parties consented in writing to proceed before a magistrate judge. *See* 28 U.S.C. § 636(c)(1).

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

(“ADA”) action alleging the District refused to hire him as an instructional aide because he has cerebral palsy. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo, *Snead v. Metro. Prop. & Cas. Ins. Co.*, 237 F.3d 1080, 1087 (9th Cir. 2001), and we affirm.

The district court properly granted summary judgment because Settle presented insufficient evidence to demonstrate that the District’s legitimate, non-discriminatory reason for refusing to hire Settle was a pretext for discrimination. *See id.* at 1093-94 (applying the burden-shifting analysis of *McDonnell Douglas* to ADA claims of employment discrimination).

We do not consider Settle’s contentions regarding age discrimination because he did not properly raise that issue before the district court. *See Greger v. Barnhart*, 464 F.3d 968, 973 (9th Cir. 2006) (refusing to consider issues that the appellant did not raise before the district court).

AFFIRMED.