

JUL 31 2009

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

WILLIAM E.H. TAGUPA,

Plaintiff - Appellant,

v.

RAY MABUS,** Secretary of the
Navy,

Defendant - Appellee.

No. 08-15960

D.C. No. 1:05-CV-00708-HG-
KSC

MEMORANDUM*

Appeal from the United States District Court
for the District of Hawaii
Helen Gillmor, Chief Judge, Presiding

Submitted July 29, 2009***

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

** Ray Mabus is substituted for his predecessor, Donald C. Winter, as Secretary of the Navy, pursuant to Fed. R. App. P. 43(c)(2).

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

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

William E. H. Tagupa appeals pro se from the district court's summary judgment for the United States Navy in his employment discrimination action. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo, *Leong v. Potter*, 347 F.3d 1117, 1123 (9th Cir. 2003), and we affirm.

The district court properly granted summary judgment because Tagupa failed to raise a triable issue that the Navy's legitimate and nondiscriminatory reason for not hiring Tagupa as Assistant Counsel – two negative job references – was pretext for an unlawful motive. *See id.* at 1124 (affirming summary judgment where plaintiff did not raise a genuine issue of material fact to rebut the employer's nondiscriminatory reason for adverse employment decision).

Tagupa failed to raise a triable issue that he was “clearly superior” to those selected. *See Schuler v. Chronicle Broad. Co.*, 793 F.2d 1010, 1011 (9th Cir. 1986) (plaintiff's subjective personal judgments of qualifications do not raise genuine issues of material fact). Tagupa also failed to raise a triable issue that the Navy used subjective criteria “to mask discriminatory motives.” *See Blue v. Widnall*, 162 F.3d 541, 546 (9th Cir. 1998) (affirming summary judgment for

employer because plaintiff failed to present evidence “that the interview process was used to mask discriminatory motives.”).

Tagupa’s remaining contentions lack merit.

AFFIRMED.