

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Huckins, Jr. v. Amazon.com Services LLC

Huckins · No. 2:24-cv-01492 WBS CSK · Decided June 25, 2025

SUMMARY

The United States District Court for the Eastern District of California granted Amazon.com Services LLC’s motion for summary judgment in an employment discrimination action brought by Ryan M. Huckins, Jr. The court rejected claims for disability discrimination, failure to accommodate, failure to prevent discrimination, wrongful termination in violation of public policy, and intentional infliction of emotional distress. The court directed the clerk to enter judgment for Amazon and close the case.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	William B. Shubb
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	June 25, 2025
DOCKET	2:24-cv-01492 WBS CSK
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved for summary judgment on plaintiff's FEHA disability discrimination, failure-to-accommodate, failure-to-prevent-discrimination, wrongful termination in violation of public policy, and intentional infliction of emotional distress claims.
STANDARD OF REVIEW	Summary judgment is proper when the record, viewed in the light most favorable to the nonmoving party, shows no genuine dispute of material fact and the movant is entitled to judgment as a matter of law. Under the FEHA burden-shifting framework, once the employer presents a legitimate, nondiscriminatory reason, the plaintiff must produce admissible evidence of pretext sufficient to create a triable issue.
PRECEDENTIAL VALUE	unpublished district court memorandum and order; persuasive but not generally binding precedent
PARTIES	Ryan M. Huckins, Jr. v. Amazon.com Services LLC

TOPICS

disability discrimination

reasonable accommodation

wrongful termination

summary judgment

intentional infliction of emotional distress

PRACTICE AREAS

employment law

disability discrimination

civil procedure

torts

QUESTIONS PRESENTED

1. Whether plaintiff produced sufficient evidence of pretext to avoid summary judgment on his FEHA disability-discrimination claim.
2. Whether plaintiff was qualified to perform the essential functions of his position or an available alternative position with reasonable accommodation.
3. Whether plaintiff's derivative FEHA failure-to-prevent-discrimination claim could proceed when the underlying discrimination claims failed.
4. Whether plaintiff's wrongful-termination-in-violation-of-public-policy claim could proceed when it was based on the unsuccessful FEHA discrimination claim.
5. Whether the alleged conduct by plaintiff's supervisor was sufficiently extreme and outrageous to support an intentional infliction of emotional distress claim.

HOLDINGS

1. Amazon was entitled to summary judgment because it presented a legitimate, nondiscriminatory reason for terminating plaintiff—violation of its drug policy after a positive marijuana test—and plaintiff failed to produce evidence from which a reasonable trier of fact could find pretext.
2. Amazon was entitled to summary judgment because plaintiff admitted he could not perform the productivity requirements of his original or alternative positions and presented no evidence that he could perform an available position with reasonable accommodation.
3. The failure-to-prevent-discrimination claim failed because it was derivative of the unsuccessful underlying FEHA discrimination claims.
4. The wrongful-termination claim failed because it was based on the alleged FEHA disability discrimination, which the court found unsupported.
5. Amazon was entitled to summary judgment on the IIED claim because the alleged conduct—being distant, less communicative, less supportive, and attempting to remove plaintiff from his shift—was not extreme or outrageous as a matter of law.

KEY QUOTATIONS

“In the absence of any connection between plaintiff’s disability and his marijuana use, violation of the company’s drug policy constitutes a nondiscriminatory reason for plaintiff’s termination.” (at 4)

“A “reasonable accommodation ‘does not require an employer to exempt an employee from performing essential functions.’” (at 9)

“IT IS THEREFORE ORDERED that defendant’s motion for summary judgment (Docket No. 12) be, and the same hereby is, GRANTED. The Clerk of Court is directed to enter judgment in favor of defendant and close the case.” (at 13-14)

FACTUAL BACKGROUND

Huckins worked as a fulfillment associate at an Amazon warehouse, where scanning, sorting, transporting packages, and meeting productivity quotas were job requirements. After being diagnosed with schizophrenia, he requested accommodations, including reduced productivity expectations or transfer to another position; Amazon declined to alter the quota and placed him in alternative departments where he also could not meet productivity requirements. After a reasonable-suspicion drug test prompted by the smell of marijuana, Huckins tested positive and was terminated for violating Amazon's drug and alcohol policy.

PROCEDURAL HISTORY

Plaintiff filed an employment discrimination action in California state court. Amazon removed the action to the Eastern District of California based on diversity jurisdiction and moved for summary judgment. The court granted the motion on all claims, directed the Clerk to enter judgment for Amazon, and closed the case.

DISPOSITION

other

CASES CITED

- Yphantides v. Cnty. of San Diego, 660 F. Supp. 3d 935, 956 (S.D. Cal. 2023)
- Faust v. Cal. Portland Cement Co., 150 Cal. App. 4th 864, 886 (2d Dist. 2007)
- Washington v. Cal. City Corr. Ctr., 871 F. Supp. 2d 1010, 1021, 1026 (E.D. Cal. 2012)
- Caldwell v. Paramount Unified School Dist., 41 Cal. App. 4th 189, 203 (2d Dist. 1995)
- Dep't of Fair Emp. & Hous. v. Lucent Techs., Inc., 642 F.3d 728, 746 (9th Cir. 2011)
- Shepherd v. Kohl's Dep't Stores, Inc., No. 1:14-cv-01901 DAD BAM, 2016 WL 4126705, at *5-6 (E.D. Cal. Aug. 2, 2016)
- Earl v. Nielsen Media Rsch., Inc., 658 F.3d 1108, 1112-13 (9th Cir. 2011)
- F.T.C. v. Neovi, Inc., 604 F.3d 1150, 1159 (9th Cir. 2010)
- Kama v. Mayorkas, 107 F.4th 1054, 1062 (9th Cir. 2024)
- Achal v. Gate Gourmet, Inc., 114 F. Supp. 3d 781, 798-99 (N.D. Cal. 2015)
- Scotch v. Art Inst. of Cal.—Orange Cnty., Inc., 173 Cal. App. 4th 986, 1010 (4th Dist. 2009)
- Dark v. Curry Cnty., 451 F.3d 1078, 1089 (9th Cir. 2006)
- Lui v. City & Cnty. of San Francisco, 211 Cal. App. 4th 962, 971-72 (1st Dist. 2012)
- Atkins v. City of Los Angeles, 8 Cal. App. 5th 696, 717-18 (2d Dist. 2017)

- Ceja-Corona v. CVS Pharmacy, Inc., 664 F. App'x 649, 650 (9th Cir. 2016)
- Lopez v. Unisource Worldwide, Inc., No. 06-cv-6290, 2007 WL 4259587, at *5-6 (N.D. Cal. Dec. 4, 2007)
- Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 587 (1986)
- Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986)
- Miller v. Dep't of Corr. & Rehab., 105 Cal. App. 5th 261, 284-85 (4th Dist. 2024)
- Noone v. Hitachi Rail STS USA, Inc., No. 8:24-cv-00313, 2024 WL 3915075, at *6 (C.D. Cal. June 17, 2024)
- Turner v. Anheuser-Busch, Inc., 7 Cal. 4th 1238, 1256 (1994)
- Arteaga v. Brinks, Inc., 163 Cal. App. 4th 327, 355 (2d Dist. 2008)
- Potter v. Firestone Tire & Rubber Co., 6 Cal. 4th 965, 1001 (1993)
- Avila v. Willits Env't Remediation Tr., 633 F.3d 828, 844 (9th Cir. 2011)
- Robles v. Agreserves, Inc., 158 F. Supp. 3d 952, 978 (E.D. Cal. 2016)
- Hughes v. Pair, 46 Cal. 4th 1035, 1050 (2009)

OPINION

Huckins, Jr. v. Amazon.com Services LLC

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 ----oo0oo---- 11 12 RYAN M. HUCKINS, JR., an No. 2:24-cv-01492 WBS CSK individual, 13
Plaintiff, 14 MEMORANDUM AND ORDER RE:

v. DEFENDANT'S MOTION FOR

15 SUMMARY JUDGMENT

AMAZON.COM SERVICES LLC; and

16 DOES 1 through 50, inclusive, 17 Defendants. 18 19 ----oo0oo---- 20 Plaintiff Ryan Huckins, Jr. filed this employment 21 discrimination action in state court against defendant Amazon, 22 alleging (1) disability discrimination in violation of 23 California's Fair Employment and Housing Act ("FEHA"), Cal. Gov't 24 Code § 12900 et seq.; (2) failure to provide an accommodation in 25 violation of FEHA; (3) failure to prevent discrimination in 26 violation of FEHA; (4) wrongful termination in violation of 27 public policy; and (5) intentional infliction of emotional 28 distress. (Compl. (Docket No. 1-2).) Defendant removed to this 1 court based on diversity jurisdiction. (Docket No. 1.) 2 Defendant now moves for summary judgment. (Docket No. 12.) 3 I. Factual Background 4 Plaintiff worked as a fulfillment associate at one of 5 defendant's warehouses beginning in August 2021. (See Baker 6 Decl. (Docket No. 12-4) ¶ 6.) The fulfillment associate position 7 involved scanning, sorting, and transporting packages and had a 8 productivity quota. (Id. ¶¶ 7-8.) Plaintiff received multiple 9 write-ups in 2022 and 2023 for failing to meet the productivity 10 standards. (Id. ¶ 9.) 11 In October of 2022, plaintiff, who was previously 12

diagnosed with schizophrenia, requested reasonable accommodations 13 related to that condition. (Huckins Decl. (Docket No. 13-2) ¶¶ 14 4-5.) Specifically, plaintiff requested an alteration to the 15 productivity requirements, which defendant declined to provide. 16 (See Knepfler Decl. (Docket No. 12-5) ¶ 14.) Defendant attempted 17 to place plaintiff in a different department, but plaintiff 18 remained unable to meet the productivity requirements. (See id. 19 ¶ 13.) 20 On April 7, 2023, plaintiff's supervisor initiated a 21 drug test of plaintiff based on suspicion of marijuana use. 22 (Baker Decl. ¶ 11.) Plaintiff tested positive for marijuana and 23 was terminated on May 4, 2023 for violation of defendant's Drug 24 and Alcohol Policy. (Id. ¶¶ 12-13.) 25 II. FEHA Claims 26 A. Disability Discrimination 27 "To establish a prima facie case of disability 28 discrimination under FEHA, a plaintiff must show '(1) he suffers 1 from a disability; (2) he is otherwise qualified to do his job; 2 and, (3) he was subjected to adverse employment action because of 3 his disability.'" *Yphantides v. Cnty. of San Diego*, 660 F. Supp. 4 3d 935, 956 (S.D. Cal. 2023) (quoting *Faust v. Cal. Portland 5 Cement Co.*, 150 Cal. App. 4th 864, 886 (2d Dist. 2007)). 6 "If the employer presents admissible evidence that one 7 or more of plaintiff's prima facie elements is lacking, or that 8 the adverse employment action was based on legitimate, 9 nondiscriminatory factors, the employer will be entitled to 10 summary judgment unless the plaintiff produces admissible 11 evidence which raises a triable issue of fact material to the 12 defendant's showing." *Washington v. Cal. City Corr. Ctr.*, 871 F. 13 Supp. 2d 1010, 1021 (E.D. Cal. 2012) (quoting *Caldwell v. 14 Paramount Unified School Dist.*, 41 Cal. App. 4th 189, 203 (2d 15 Dist. 1995)). "The employee can satisfy [his] burden by 16 'producing substantial responsive evidence that the employer's 17 showing was untrue or pretextual.'" Id. (quoting *Dep't of Fair 18 Emp. & Hous. v. Lucent Techs., Inc.*, 642 F.3d 728, 746 (9th Cir. 19 2011)) (quotation altered). 20 Defendant has provided evidence that plaintiff's 21 termination was based on a legitimate, nondiscriminatory reason. 22 The policies in place during plaintiff's employment provided that 23 "[e]mployees are prohibited from reporting to work or working if 24 the employee uses any illegal or unauthorized substances, which 25 include any drug that is unlawful to use or possess as a matter 26 of federal, state, or local law." (Ex. 4 to Baker Decl. (Docket 27 No. 12-4 at 20-25) at 1.) The policy stated that employees could 28 be required to submit to a drug test based on "reasonable 1 suspicion," which includes "the presence of an odor that suggests 2 that the employee is using drugs." (Id. at 3.) 3 Defendant subjected plaintiff to a reasonable suspicion 4 drug test on April 7, 2023, which his supervisor Oliver Obreno 5 said was initiated because plaintiff smelled like marijuana. 6 (See Ex. 5 to Baker Decl. (Docket No. 12-4 at 27-32).) Plaintiff 7 admits that he had smoked marijuana "approximately five to six 8 hours before" his shift that day. (Huckins Decl. ¶ 11.) 9 Plaintiff tested positive for marijuana and defendant terminated 10 him on May 4, 2023 for the stated reason that he had used 11 marijuana in violation of company policy. (Baker Decl. ¶ 13.) 12 In the

absence of any connection between plaintiff's disability 13 and his marijuana use,1 violation of the company's drug policy 14 constitutes a nondiscriminatory reason for plaintiff's 15 termination. See *Shepherd v. Kohl's Dep't Stores, Inc.*, No. 16 1:14-cv-01901 DAD BAM, 2016 WL 4126705, at *5–6 (E.D. Cal. Aug. 17 2, 2016) (granting summary judgment on FEHA claim in favor of 18 employer who terminated disabled employee based on positive 19 marijuana test).2 20 Because defendant has carried its burden to provide a 21 legitimate reason for plaintiff's termination, the burden shifts 22 23 1 Defendant's drug policy allows employees to use medical marijuana in compliance with California state law. (See Ex. 5 to 24 Baker Decl. at 2.) Plaintiff does not contend that he was using medical marijuana. 25 26 2 The California Legislature amended FEHA, effective January 1, 2024, to bar discrimination based on off-duty cannabis 27 use. See Cal. Gov't Code § 12954(a)(1). This provision is inapplicable to plaintiff's termination, which predates the 28 effective date of the amendment. 1 to plaintiff to "demonstrate pretext in either of two ways: (1) 2 directly, by showing that unlawful discrimination more likely 3 than not motivated the employer; or (2) indirectly, by showing 4 that the employer's proffered explanation is unworthy of credence 5 because it is internally inconsistent or otherwise not 6 believable." *Washington*, 871 F. Supp. 2d at 1026 (quoting *Earl 7 v. Nielsen Media Rsch., Inc.*, 658 F.3d 1108, 1112-13 (9th Cir. 8 2011)). 9 Plaintiff has failed to rebut defendant's showing for 10 several reasons. First, plaintiff's opposition to defendant's 11 motion was filed in violation of the rules of this court. Local

12 Rule 230(c) requires that opposition to a motion be filed within 13 fourteen days. Plaintiff's counsel filed his opposition brief 14 thirty-five days following defendant's motion -- a full three 15 weeks late -- without seeking leave from this court to file an 16 opposition or acknowledging his error.3 Given counsel's 17 disregard for the court's rules, the court is entitled to 18 construe plaintiff's failure to timely oppose as non-opposition 19 to defendant's motion. See L.R. 230(c) ("A failure to file a 20 timely opposition may also be construed by the Court as a non- 21 opposition to the motion."). 22 23 3 At oral argument, based upon an outdated version of the Local Rules that used to require the opposition to a motion be 24 filed twenty-one days prior to the hearing date, plaintiff's counsel attempted to argue that his filing was timely. The 25 problem with that argument is that the provision counsel relied upon was removed from the relevant local rule when the current 26 version was adopted three years ago. See E.D. Cal. Gen. Order

27 No. 645. Counsel's failure to familiarize himself with the court's current rules does not excuse his failure to comply with 28 them. 1 Second, even if the court disregards counsel's 2 procedural neglect and considers plaintiff's briefing on the 3 merits, plaintiff fails to raise a genuine dispute of fact 4 concerning pretext. The only evidence plaintiff provides is a 5 declaration, which states that plaintiff "firmly believe[s]" his 6 termination "did not result from any legitimate violation of 7 company policy but rather from retaliation and discrimination 8 based on my disability and my consistent, good-faith efforts to 9 seek reasonable accommodations." (Huckins Decl. ¶ 15.) However, 10 no corroborating details or evidence are

provided to support that 11 alleged belief. The declaration states that Mr. Obreno “was 12 aware of [plaintiff’s] condition and requested accommodations” 13 (see id. ¶ 12), but plaintiff admits his assertion that Mr. 14 Obreno knew of his condition is “speculati[on]” (see Huckins Dep. 15 (Docket No. 12-3 at 4-35) at 95:21-96:10). Plaintiff states that 16 as a result of his disability, Mr. Obreno “became distant and 17 less communicative” and plaintiff “no longer felt supported by 18 him,” but does not point to any specific conduct or incidents. 19 (See Huckins Decl. ¶ 12.) Plaintiff also states that Mr. Obreno 20 sought to have plaintiff removed from his shift, which could have 21 been the result of either plaintiff’s poor productivity or 22 “possibly due to his discomfort with [plaintiff’s] medical 23 condition.” (Id. ¶ 15.) 24 Given that plaintiff admitted to using marijuana on the 25 day of the drug test (id. ¶ 11), plaintiff’s declaration does not 26 support an inference that the drug test or resulting termination 27 were pretextual. Rather, it provides nothing more than “a few 28 bald, uncorroborated, and conclusory assertions rather than 1 evidence” concerning the alleged discriminatory animus underlying 2 his termination. See *F.T.C. v. Neovi, Inc.*, 604 F.3d 1150, 1159 3 (9th Cir. 2010). 4 The circumstances surrounding the events at issue 5 likewise do not support plaintiff’s allegation of discrimination. 6 Plaintiff first requested accommodations on October 27, 2022, and 7 the drug test was initiated on April 6, 2023 -- more than five 8 months later. (See Huckins Decl. ¶¶ 5, 11.) This attenuated 9 temporal connection alone does not suggest pretext. See *Kama v. 10 Mayorkas*, 107 F.4th 1054, 1062 (9th Cir. 2024) (a “five-month 11 gap” between plaintiff’s employment complaint and alleged 12 retaliatory action by employer “without more, places it at only 13 the outer bounds of relevance”). Further, plaintiff’s 14 communications concerning accommodations were made with the 15 Disability and Leave Services (“DLS”) department. (See Huckins 16 Decl. ¶¶ 5-10.) There is no evidence before the court to suggest 17 that Mr. Obreno, or either of the two “neutral” managers involved 18 in the drug testing process (see Baker Decl. ¶ 11), had any 19 involvement in or knowledge of plaintiff’s accommodation request. 20 To the contrary, the declarations provided by defendant explain 21 that DLS does not share information concerning employees’ 22 disabilities or accommodations with managers or local human 23 resources personnel. (See Baker Decl. ¶ 5; Knepfler Decl. ¶ 5.) 24 For the foregoing reasons, plaintiff has failed to 25 rebut defendant’s showing that the termination was non- 26 discriminatory, and defendant is entitled to summary judgment on 27 the first claim alleging disability discrimination under FEHA. 28

1 B. Failure to Accommodate 2 FEHA makes it unlawful “for an employer . . . to fail 3 to make reasonable accommodation for the known physical or mental 4 disability of an applicant or employee.” Cal. Gov’t Code § 5 12940(m). “The elements of a prima facie claim for failure to 6 make reasonable accommodation [] are: (1) the plaintiff has a 7 disability covered by FEHA4; (2) the plaintiff is qualified to 8 perform the essential functions of the position; and (3) the 9 employer failed to reasonably accommodate the plaintiff’s 10 disability.” *Achal v. Gate Gourmet, Inc.*, 114 F. Supp. 3d 781, 11 798 (N.D. Cal. 2015) (citing *Scotch v. Art Inst. of Cal.—Orange 12 Cnty., Inc.*, 173 Cal. App. 4th 986, 1010 (4th Dist. 2009)).5

13 It is undisputed that plaintiff was unable to meet the 14 productivity requirements of the

fulfillment associate position. 15 Defendant contends that the productivity requirement was an 16 essential function of the fulfillment associate position (as well 17 as all other available positions at the warehouse), and therefore 18 plaintiff was not qualified to perform those jobs. 19 A “reasonable accommodation ‘does not require an 20 employer to exempt an employee from performing essential 21 functions.’” Lucent, 642 F.3d at 744 (quoting Dark v. Curry 22 Cnty., 451 F.3d 1078, 1089 (9th Cir. 2006)). Essential functions 23 4 The parties agree that plaintiff has a disability 24 covered by FEHA. 25 5 Under FEHA, a failure to accommodate claim differs from a discrimination claim “in that an adverse employment action need 26 not be shown, nor is any showing of a causal nexus between one’s 27 disability and an adverse employment action required.” Achal, 114 F. Supp. 3d at 798–99 (quoting Jensen v. Wells Fargo Bank, 85 28 Cal. App. 4th 245, 255-56 (2d Dist. 2000)). 1 are “the fundamental job duties of the employment position the 2 individual with a disability holds or desires.” Cal. Gov’t Code 3 § 12926(f)(1). A job function may be considered essential for 4 several reasons, including that the reason the position exists is 5 to perform that function, there are a limited number of employees 6 who can perform that function, or the function is highly 7 specialized. Lui v. City & Cnty. of San Francisco, 211 Cal. App. 8 4th 962, 971–72 (1st Dist. 2012) (citing Cal. Gov’t Code § 9 12926(f)(1)). “Evidence of ‘essential functions’ may include the 10 employer’s judgment, written job descriptions, the amount of time 11 spent on the job performing the function, the consequences of not 12 requiring employees to perform the function, the terms of a 13 collective bargaining agreement, the work experiences of past 14 incumbents in the job, and the current work experience of 15 incumbents in similar jobs.” Atkins v. City of Los Angeles, 8 16 Cal. App. 5th 696, 717–18 (2d Dist. 2017), as modified on denial 17 of reh’g (Mar. 13, 2017) (citing Cal. Gov’t Code § 12926(f)(2)). 18 After plaintiff initiated his request for 19 accommodations in October 2022, DLS sought more information from 20 plaintiff. (See Huckins Decl. ¶ 5; Knepfler Decl. ¶ 7.) 21 Plaintiff requested either a transfer to a different position or 22 a reduction in productivity expectations. (See Knepfler Decl. ¶ 23 8; Huckins Dep. at 116:15-117:8.) DLS informed plaintiff that it 24 “cannot alter rate or productivity,” and plaintiff “will still be 25 subject to meeting [the quota] no matter the accommodation.” 26 (Ex. 13 to Knepfler Decl. (Docket No. 12-5 at 20).) 27 In December 2022, DLS approved a trial placement in the 28 “Pack” department. (Huckins Decl. ¶ 9; Huckins Dep. at 120:9- 1 21.) However, plaintiff found that placement more difficult and 2 was unable to meet the productivity requirement of that position 3 as well. (See Huckins Dep. at 120:9-121:5.) In February 2023, 4 plaintiff requested that he be returned to his original role, but 5 was instead reassigned to the “BOD” department, which plaintiff 6 again found to be more difficult than his original role. (See 7 Huckins Decl. ¶ 10.) Plaintiff acknowledges that he was unable 8 to satisfy the productivity requirements of any of these 9 positions. (See id. ¶¶ 8-10.) 10 Defendant provides a declaration from a human resources 11 manager, which states that “[m]eeting productivity expectations 12 is an essential function of the fulfillment associate position” 13 that is “established by Amazon’s central operations team and 14 . . . applied uniformly across all fulfillment

associates.” 15 (Baker Decl. ¶ 8.) Defendant also provides records of feedback 16 sent to plaintiff throughout his employment indicating that his 17 job performance was “not meeting Productivity expectations,” 18 which are a “critical component” of plaintiff’s job. (Ex. 3 to 19 Baker Decl. (Docket No. 12-4 at 14-18).) 20 Even construing the facts in the light most favorable 21 to plaintiff, all evidence before the court tends to support 22 defendant’s position that the productivity quota -- which 23 plaintiff could not satisfy -- was an essential job function of 24 both plaintiff’s original position and the available alternative 25 positions. Plaintiff makes no attempt to provide any evidence, 26 or even bare argument, to rebut the assertion in the Baker 27 Declaration that productivity was an essential function of the 28 fulfillment associate position. (See Baker Decl. ¶ 8.) 1 Plaintiff’s declaration provides no facts that bear on the 2 questions of whether productivity was an essential function or 3 whether plaintiff was qualified for any other specific position. 4 (See generally Huckins Decl.) Plaintiff’s opposition brief also 5 fails to directly address the issue, instead merely stating that 6 plaintiff “was capable of performing the job with reasonable 7 accommodations” without any supporting evidence or authority. 8 (See Opp’n at 11-12.) 9 Because plaintiff “admitted that [he] could not perform 10 the responsibilities of the position that [he] last held, or of 11 the other positions that [he] had held,” and “failed to point to 12 any specific vacant position to which [he] could have been 13 reassigned,” defendant is entitled to summary judgment on this 14 claim. See *Ceja-Corona v. CVS Pharmacy, Inc.*, 664 F. App’x 649, 15 650 (9th Cir. 2016); see also *Lopez v. Unisource Worldwide, Inc.*, 16 No. 06-cv-6290, 2007 WL 4259587, at *5-6 (N.D. Cal. Dec. 4, 2007) 17 (granting summary judgment in favor of employer where plaintiff 18 sought a reduction in the “normal productivity standards for the 19 warehouseman position” but “offer[ed] no evidence that he was 20 able to perform the duties associated with the conventional 21 warehouse position, with or without reasonable accommodation”). 22 Given the complete absence of evidence tending to 23 support plaintiff’s argument, “the record taken as a whole could 24 not lead a rational trier of fact to find for the non-moving 25 party,” and there is therefore “no genuine issue for trial” 26 concerning whether plaintiff was qualified to perform an 27 available position. See *Matsushita Elec. Indus. Co. v. Zenith 28 Radio Corp.*, 475 U.S. 574, 587 (1986) (quotation altered); see 1 also *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986) (summary 2 judgment must be granted where “the nonmoving party has failed to 3 make a sufficient showing on an essential element of [his] case 4 with respect to which [he] has the burden of proof”). 5 Accordingly, defendant is entitled to summary judgment on the 6 second claim alleging failure to accommodate under FEHA. 7 C. Failure to Prevent Discrimination 8 FEHA makes it unlawful for an employer to “fail to take 9 all reasonable steps necessary to prevent discrimination . . . 10 from occurring.” Cal. Gov’t Code § 12940(k). A claim for 11 failure to prevent discrimination is necessarily derivative of a 12 separate claim for actionable discrimination. See *Miller v. 13 Dep’t of Corr. & Rehab.*, 105 Cal. App. 5th 261, 284-85 (4th Dist. 14 2024). Because the underlying FEHA claims fail, plaintiff’s 15 third claim alleging failure to prevent discrimination likewise 16 fails. See *id.* 17 III. Other State Law

Claims 18 A. Wrongful Termination in Violation of Public Policy 19 “[T]o sustain a claim of wrongful discharge in 20 violation of fundamental public policy, [a plaintiff] must prove 21 that his dismissal violated a policy that is (1) fundamental, (2) 22 beneficial for the public, and (3) embodied in a statute or 23 constitutional provision.” Noone v. Hitachi Rail STS USA, Inc., 24 No. 8:24-cv-00313, 2024 WL 3915075, at *6 (C.D. Cal. June 17, 25 2024) (quoting Turner v. Anheuser-Busch, Inc., 7 Cal. 4th 1238, 26 1256 (1994)). 27 Plaintiff bases his wrongful termination claim on an 28 underlying violation of FEHA. (See Compl. ¶ 46; Opp’n (Docket

1 No. 13) at 17-18.) But as discussed above, there is no evidence 2 that plaintiff’s termination was the result of discrimination and 3 the FEHA claim premised on his termination fails. Accordingly, 4 defendant is entitled to summary judgment on the fourth claim 5 alleging wrongful termination. See Arteaga v. Brinks, Inc., 163 6 Cal. App. 4th 327, 355 (2d Dist. 2008) (“The wrongful termination 7 claim is, after all, based on the FEHA’s prohibition of . . . 8 disability discrimination . . . [and] fails for the same reasons 9 as the FEHA claim.”).

10 B. IIED

11 The elements of a cause of action for intentional 12 infliction of emotional distress (“IIED”) are “(1) extreme and 13 outrageous conduct by the defendant with the intention of 14 causing, or reckless disregard of the probability of causing, 15 emotional distress; (2) the plaintiff’s suffering severe or 16 extreme emotional distress; and (3) actual and proximate 17 causation of the emotional distress by the defendant’s outrageous 18 conduct.” Potter v. Firestone Tire & Rubber Co., 6 Cal. 4th 965, 19 1001 (1993); Avila v. Willits Env’t Remediation Tr., 633 F.3d 20 828, 844 (9th Cir. 2011) (same). “Conduct is ‘extreme and 21 outrageous’ when it is ‘so extreme as to exceed all bounds of 22 that usually tolerated in a civilized community.” Robles v. 23 Agreserves, Inc., 158 F. Supp. 3d 952, 978 (E.D. Cal. 2016) 24 (quoting Hughes v. Pair, 46 Cal. 4th 1035, 1050 (2009); Potter, 6

25 Cal. 4th at 1001).

26 Plaintiff argues that the alleged mistreatment 27 attributed to his supervisor, Mr. Obreno, supports a claim for 28 IIED. However, there is no evidence of outrageous conduct by Mr.

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1 Obreno. Plaintiff’s declaration merely states that Mr. Obreno’s 2 behavior towards plaintiff “changed noticeably,” Mr. Obreno 3 “became distant and less communicative” and tried to remove 4 plaintiff from his shift, and plaintiff “no longer felt supported 5 by him in the workplace.” (Huckins Decl. 12, 15.) No 6 additional detail or evidence is provided to corroborate these 7 vague assertions. Even if plaintiff had provided evidentiary 8 support, no reasonable trier of fact could conclude that behaving 9 in a manner that is distant, less communicative, or less 10 supportive rises to the level of “outrageous conduct.” 11 Accordingly, defendant is entitled to summary judgment on the 12 fifth claim alleging IIED. 13 IT IS THEREFORE ORDERED that defendant’s motion for 14 summary judgment (Docket No. 12) be, and the same hereby is, 15 GRANTED.

The Clerk of Court is directed to enter judgment in 16 favor of defendant and close the case. 17 |

Dated: June 24, 2025 tleom ah. A. be—~

18 WILLIAM B. SHUBB

UNITED STATES DISTRICT JUDGE

19 20 21 22 23 24 25 26 27 28 14