

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 13-5105

September Term, 2015

1:07-cv-00187-RMC

Filed On: July 5, 2016

Rajnikant Patel,

Appellant

v.

Robert A. McDonald, Secretary of Veterans  
Affairs,

Appellee

## ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

**BEFORE:** Rogers, Kavanaugh, and Wilkins, Circuit Judges

### J U D G M E N T

This appeal was considered on the record from the United States District Court for the District of Columbia and on the briefs filed by the parties. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). It is

**ORDERED AND ADJUDGED** that the district court's order filed March 18, 2013 be affirmed. On appeal, appellant makes no argument challenging the grounds on which the district court disposed of his claims of discrimination on the basis of age, race, and religion. See U.S. ex rel. Totten v. Bombardier Corp., 380 F.3d 488, 497 (D.C. Cir. 2004) (argument not made on appeal is deemed waived).

With respect to appellant's claims of discrimination on the basis of gender and national origin under 42 U.S.C. § 2000e et seq., appellee has stated a legitimate reason for denying appellant's application for promotion. Appellant challenges the proffered reason only on the ground that the employees selected for promotion lacked a required professional certification; however, appellant has failed to demonstrate that medical technologists employed by appellee were required to possess any professional certification at the time he was denied promotion. We therefore affirm the grant of summary judgment with regard to those claims because appellant has failed to produce evidence sufficient for a reasonable jury to find that appellee's asserted non-discriminatory reason was not the actual reason for failing to promote him, and that appellee intentionally discriminated against him. See Gilbert v. Napolitano, 670 F.3d 258, 261 (D.C. Cir.2012).

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Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

## Per Curiam

**FOR THE COURT:**

Mark J. Langer, Clerk

**By:** /s/  
Ken Meadows  
Deputy Clerk