

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 00-20402  
Conference Calendar

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JACQUELINE JOHNSON,

Plaintiff-Appellant,

versus

HOUSING AUTHORITY OF THE CITY OF BRYAN,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. H-98-CV-1233  
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December 13, 2000

Before DAVIS, STEWART, and PARKER, Circuit Judges.

PER CURIAM:\*

Jacqueline Johnson appeals the summary judgment in favor of the Housing Authority of the City of Bryan, Texas, in her action alleging discriminatory employment practices in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000(e) et seq. The district court entered summary judgment because the Bryan Housing Authority was not an employer as defined by Title VII. Title VII defines "employer" as "a person engaged in an industry affecting commerce who has fifteen or more employees each working day in each of twenty or more calendar weeks in the

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

current or preceding calendar year . . . ." 42 U.S.C.

§ 2000e(b); Greenlees v. Eidenmuller Enterprises, Inc., 32 F.3d 197, 198 (5th Cir. 1994). The Bryan Housing Authority submitted the affidavit of its Executive Director which stated that the Bryan Housing Authority had no more than seven employees at any time. Johnson submitted no evidence to the district court to rebut this affidavit.

Johnson has filed a motion to supplement the record with several documents including the Bryan Housing Authority quarterly report to the Texas Workforce Commission. This court does not generally consider new evidence presented for the first time on appeal. See United States v. Flores, 887 F.2d 543, 546 (5th Cir. 1989). This case does not present any circumstances which would require a variance from the general policy. Johnson's motion to supplement the record is DENIED.

There is no genuine issue for trial that the Bryan Housing Authority was not an employer as defined under Title VII, and the district court did not err in granting summary judgment in favor of the defendant. See Amburgey v. Corhart Refractories Corp., 936 F.2d 805, 809 (5th Cir. 1991).

AFFIRMED; MOTION TO SUPPLEMENT THE RECORD DENIED.