

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 18-20407
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

March 6, 2019

Lyle W. Cayce
Clerk

LA TONYA D. JUDON,

Plaintiff - Appellant

v.

EP ENERGY, L.L.C.,

Defendant - Appellee

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:16-CV-1834

Before JOLLY, COSTA, and HO, Circuit Judges.

PER CURIAM:*

La Tonya Judon sued EP Energy for retaliation under the Family and Medical Leave Act (the “FMLA”) and for hostile work environment. The district court granted summary judgment for EP Energy and Judon appeals the dismissal. On appeal, Judon brings additional claims for the first time. We do not consider these claims. *See Stewart Glass & Mirror, Inc. v. U.S. Auto*

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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Glass Disc. Ctrs., Inc., 200 F.3d 307, 316–17 (5th Cir. 2000) (“It is a bedrock principle of appellate review that claims raised for the first time on appeal will not be considered. This rule is equally applicable in summary judgment cases.”).

First, Judon claims EP Energy dismissed her in retaliation because she requested leave under the FMLA. Second, Judon argues, because of her disabilities, EP Energy created a hostile work environment. EP Energy responds that they terminated Judon because of her demonstrated pattern of poor performance, disciplinary actions, and insubordination. An employer may point to a legitimate, non-retaliatory reason for termination as a defense to a retaliation claim. *See Ion v. Chevron USA, Inc.*, 731 F.3d 379, 390 (5th Cir. 2013).

Regarding her second preserved claim, Judon only points to two instances of hostility over three years of employment to establish a hostile work environment. Neither instance rises to the necessary level to show a hostile work environment. *Patton v. Jacobs Eng’g Group, Inc.*, 874 F.3d 437, 445 (5th Cir. 2017).

We have reviewed the briefs, the applicable law, and relevant parts of the record. The district court committed no reversible error. The judgment is **AFFIRMED**.