

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 98-10881  
Summary Calendar

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THOMAS E. CRAIG,

Plaintiff-Appellant,

VERSUS

RYDER TRUCK RENTAL, INC.,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Southern District of Texas  
(3:97-CV-1533-D)

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February 24, 1999

Before DAVIS, DUHÉ and PARKER, Circuit Judges.

PER CURIAM:\*

Plaintiff Thomas Craig ("Craig") brought action against his former employer, Ryder Truck Rental, Inc. ("Ryder") for disability discrimination in violation of his rights under the Americans With Disabilities Act ("ADA") and the Family Medical Leave Act ("FMLA"). Craig further sought action against Ryder for intentional infliction of emotional distress. The United States District Court

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

for the Northern District of Texas, Dallas Division, granted summary judgment in favor of Ryder. The district court also denied Craig's motion for leave to file amended response. Craig now appeals. We affirm.

In 1977, Ryder hired Craig to work at its facility in Oxnard, California. In the Fall of 1995, Craig accepted a position at Ryder's facility in Lewisville, Texas and transferred to Texas. Craig, however, did not report to work in Lewisville, claiming he suffered from depression. Ryder ultimately terminated Craig's employment in December, 1995.

Craig asserts the district court abused its discretion by excluding proffered summary judgment evidence. We disagree. The district court considered Craig's evidence and found it insufficient to meet his burden to avoid summary judgment.

Craig also asserts the district court abused its discretion when it denied Craig's Motion for Leave to File Amended Response. A district court does not abuse its discretion in refusing to consider evidence submitted in a post-judgment motion after the entry of summary judgment. *See Wallace v. Texas Tech Univ.*, 80 F.3d 1042, 1052 (5th Cir. 1996). In addition, Craig has not offered any explanation or excuse for failing to present sufficient evidence prior to the district court's ruling. *See id.* The district court did not abuse its discretion.

We find no merit in Craig's claims that the district court abused its discretion in: (1) excluding evidence and (2) denying Craig's Motion for Leave to File Amended Response. For the

foregoing reasons, the district court's judgment is affirmed.

AFFIRMED.