

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 96-50878

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POINETTE GODFREY,

Plaintiff-Appellant,

versus

SOUTHWEST AIRLINES CO.,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Western District of Texas  
(SA-95-CA-0456)

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April 16, 1997

Before SMITH, DUHÉ, and BARKSDALE, Circuit Judges.

PER CURIAM\*:

Poinette Godfrey challenges an adverse summary judgment in her Title VII action, which arises out of discharge from her employment as a probationary flight attendant after Southwest had received negative reports concerning her "attitude, friendliness, and passenger contact".

Godfrey contends that Southwest's system of confidential evaluation of probationary flight attendants constitutes disparate

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

impact discrimination based on race. Godfrey did not raise this issue in her complaint, however. The first appearance of this theory was not until after Southwest's summary judgment motion. Furthermore, in her "letter brief" in response to Southwest's reply brief for summary judgment, Godfrey expressly abandoned her disparate impact claim. Needless to say, this court may decline to exercise our discretion to consider issues that were not raised in the district court. See, e.g., **Highlands Ins. Co. v. Nat'l Union Fire Ins. Co.**, 27 F.3d 1027, 1031-32 (5th Cir. 1994) cert. denied, 115 S. Ct. 903 (1995) (applying, in civil case, plain error analysis of **United States v. Olano**, 507 U.S. 725 (1993)).

In any event, concerning this claim, as well as those for discriminatory treatment and retaliatory discharge claims, and pursuant to our *de novo* review, we affirm for essentially the reasons stated by the district court. **Godfrey v. Southwest Airlines Co.**, Order Granting Defendant's Motion for Summary Judgment (SA-95-CA-0456) (18 October, 1996).

**AFFIRMED**