

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-4006

LESSIE EUGENE JONES,

Plaintiff-Appellant,

versus

JACKSON NATIONAL LIFE INSURANCE COMPANY,

Defendant-Appellee.

Appeal from the United States District Court for the
Western District of Louisiana

(October 18, 1993)

Before SNEED,* REYNALDO G. GARZA, and JOLLY, Circuit Judges.

PER CURIAM:**

This appeal is from a judgment denying a claim on a life insurance policy.

In July 1988, Mr. Shaw applied for a \$250,000 life insurance policy with Jackson National Life Insurance Company (JNLIC) naming his friend and companion, Mr. Jones, as beneficiary. On the

*Senior Circuit Judge of the Ninth Circuit, sitting by designation.

**Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the court has determined that this opinion should not be published.

application, Shaw represented, inter alia, that he had not been advised to have any diagnostic tests within the last ten years. At trial, a physician who treated Shaw in 1984 for headaches, venereal disease, and liver disfunction, testified that he informed Shaw that, given his sexual preference, Shaw could have Acquired Immune Deficiency Syndrome (AIDS) and should have further testing with respect to this disease. On September 4, 1990, less than one year after Jackson National Life issued the policy, Shaw died of AIDS.

In April 1991, JNLIC informed Jones that because of Shaw's misrepresentations on the application for the life insurance policy, it would not pay the benefit. On May 20, 1991, Jones sued JNLIC in Louisiana state court. JNLIC removed the action to federal district court. After a one-day trial, the district judge dismissed Jones's action with prejudice on grounds that Shaw made material misrepresentations with intent to deceive JNLIC. See La. Rev. Stat. Ann. § 22:619 (West Supp. 1993). We review findings of fact for clear error. Williams v. Fab-Con, Inc., 990 F.2d 228, 230 (5th Cir. 1993). After review of the briefs and the record, and after hearing counsel's arguments, we are unable to say that the district court's findings are clearly erroneous. Because the district court's findings are not clearly erroneous, its judgment is

A F F I R M E D.