

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-60392
Summary Calendar

KENNETH MICHAEL CUEVAS,

Plaintiff-Appellant,

VERSUS

COOPERATIVE BENEFIT ADMINISTRATORS, INC., et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Mississippi
(1:94 CV 263 BrR)

November 3, 1995

Before KING, SMITH, AND BENAVIDES, Circuit Judges.

PER CURIAM:*

In this ERISA case, the plaintiff raises, as his sole issue on appeal, the issue of whether the district court should have remanded his claim of disability to the plan administrator for

* Local Rule 47.5.1 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 Pursuant to that rule, the court has determined that this opinion should not be published.

consideration of additional information regarding his disability. In a comprehensive, sixteen-page opinion, the district court, citing Duhon v. Texaco, Inc., 15 F.3d 1302 (5th Cir. 1994), denied relief, stating that "the record indicates that Cuevas did not support his claim by providing further medical evidence and information regarding his employment, notwithstanding such evidence was available during the administrative appeals process."

We affirm, essentially for the reasons given by the district court. There was insufficient evidence of disability to perform the job offered to Cuevas by his former employer, and Cuevas submitted no evidence to the Appeals Committee in that regard, despite requests from the committee. Several weeks later, Cuevas submitted the additional information, which the district court found had been available to him during the appeals process. Moreover, the district court found that substantial evidence supported the Appeals Committee's decision based upon the evidence before it at the time.

The judgment is AFFIRMED.