

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

September 1, 2021

FOR THE TENTH CIRCUIT

Christopher M. Wolpert
Clerk of Court

ELDIE L. CRUZ, M.D.,

Plaintiff - Appellant,

v.

RELIANCE STANDARD LIFE
INSURANCE COMPANY,

Defendant - Appellee.

No. 21-2018
(D.C. No. 1:18-CV-00974-RB-SCY)
(D. N.M.)

ORDER AND JUDGMENT*

Before **McHUGH, BALDOCK**, and **MORITZ**, Circuit Judges.

Defendant Reliance Standard Life Insurance Company denied long-term disability insurance benefits to one of its insureds, Plaintiff Eldie L. Cruz, M.D., prompting Cruz to bring this action under the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. §§ 1001–1461. The district court reviewed the insurance company’s decision de novo, upheld it, and entered final judgment against

* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

Cruz. He timely filed a notice of appeal (we therefore have jurisdiction under 28 U.S.C. § 1291), and he has represented himself before this court.

Cruz tells us, “The only argument I want to make is that I feel like the 7th amendment of the U.S. Constitution doesn’t include me after what has happened in this case.” *Aplt. Opening Br.* at 2. Drawing on his experience as a practicing physician, Cruz explains that medical records are frequently wrong because, for example, “things get heard wrong, doctors don’t write [their] notes right away, they cut and paste from other notes . . . , [and] they confuse one patient with another.” *Id.* at 1. Cruz believes he should have had an opportunity to demonstrate as much to a jury, so he asks us to “uphold [his] 7th amendment right by striking down the part of ERISA that denies a trial by jury.” *Id.* at 3.

ERISA does not explicitly deny a trial by jury. This court holds, however, that an action to recover ERISA-governed benefits is equitable, not legal, and so does not fall within the Seventh Amendment’s civil jury trial guarantee. *See Adams v. Cyprus Amax Minerals Co.*, 149 F.3d 1156, 1158–62 (10th Cir. 1998); *see also Graham v. Hartford Life & Acc. Ins. Co.*, 589 F.3d 1345, 1355–57 (10th Cir. 2009) (reaffirming *Adams* over an argument that an intervening Supreme Court decision had abrogated it). “[W]e cannot overrule the judgement of another panel of this court absent en banc reconsideration or a superseding contrary decision by the Supreme Court.” *Burlington N. & Santa Fe Ry. Co. v. Burton*, 270 F.3d 942, 947 (10th Cir. 2001). By definition this panel is not sitting en banc, and Cruz has not pointed us to any superseding Supreme Court authority, nor are we aware of any. Accordingly, we

may not grant the only relief he requests. We therefore affirm the district court's judgment.

Entered for the Court

Carolyn B. McHugh
Circuit Judge