

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-2152

JOHN B. KIMBLE,

Plaintiff - Appellant,

v.

M.D. RAJESH K. RAJPAL; SEE CLEARLY VISION LLC,

Defendants - Appellees.

Appeal from the United States District Court for the District of Maryland, at Greenbelt. Roger W. Titus, District Judge. (8:11-cv-01457-RWT)

Submitted: January 28, 2013

Decided: February 28, 2013

Before DUNCAN and THACKER, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

John B. Kimble, Appellant Pro Se. Thomas Clyde Marriner, COWDREY, THOMPSON & KARSTEN, PA, Easton, Maryland, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

John B. Kimble appeals the district court's orders dismissing his civil action without prejudice for failure to comply with the requirements of Maryland's Health Care Malpractice Claims Act ("HCMCA"), Md. Code Ann., Cts. & Jud. Proc. §§ 3-2A-01 to 3-2A-10 (West 2012), and denying reconsideration.

On appeal, Kimble repeats his argument, first raised in his motion for reconsideration, that the HCMCA violates the Fourteenth Amendment Equal Protection Clause. Insofar as this argument was properly raised below, we conclude the district court committed no error in rejecting it. Kimble does not invoke a suspect classification nor claim that the HCMCA burdens a fundamental right; thus, rational basis scrutiny applies. See Nordlinger v. Hahn, 505 U.S. 1, 10 (1992). The Court of Appeals of Maryland has concluded that the HCMCA does not violate the Fourteenth Amendment right to equal protection under either rational basis or intermediate scrutiny. See Attorney General v. Johnson, 385 A.2d 57, 76-81 (Md. 1978), overruled on other grounds by Newell v. Richards, 594 A.2d 1152 (Md. 1991). We find Johnson's analysis persuasive here.

Turning to Kimble's remaining arguments that the HCMCA does not apply to his case and that the action should not have been dismissed for failure to comply with HCMCA requirements, we

have reviewed the record and find no reversible error. Accordingly, although we grant leave to proceed in forma pauperis, we affirm substantially for the reasons stated by the district court. Kimble v. Rajpal, No. 8:11-cv-01457-RWT (D. Md. Aug. 8 & Aug. 28, 2012); see Lewis v. Waletzky, 31 A.3d 123, 125, 129-30, 135 (Md. 2011). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED