

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 99-11009  
Summary Calendar

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DAVID VALDEZ,

Plaintiff-Appellant,

versus

BOILERMAKER BLACKSMITH NATIONAL PENSION TRUST,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 2:98-CV-286-J  
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May 16, 2000

Before DAVIS, DUHÉ and DeMOSS, Circuit Judges.

PER CURIAM:<sup>1</sup>

David Valdez appeals the district court's entry of summary judgment dismissing his claim for disability benefits from an Employee Retirement Income Security Act of 1974 (ERISA) governed pension plan; 29 U.S.C. § 1001 et seq. This court reviews the Board of Trustee's denial of Valdez's claim for benefits for abuse of discretion. See Threadgill v. Prudential Securities Group, Inc., 145 F.3d 286, 292 (5th Cir. 1998).

Valdez argues that the Board of Trustees calculated the amount of benefits to which he was entitled using a legally incorrect

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<sup>1</sup> Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

interpretation of the Plan's permanent break rule. Valdez must additionally address whether, in addition to being legally incorrect, the Board of Trustee's interpretation of the Plan was an abuse of discretion. See id. at 295. Valdez has not met his burden of showing that the Board of Trustee's interpretation of the Plan and denial of his request for benefits was an abuse of discretion. The district court's grant of summary judgment in favor of the defendant is AFFIRMED.