

DEC 07 2007

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RICHARD H. AGUILAR,

Plaintiff - Appellant,

v.

NEW UNITED MANUFACTURING  
DISABILITY INSURANCE INCOME  
PLAN,

Defendant - Appellee.

No. 05-16768

D.C. No. CV-03-04387-WWS

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
William W Schwarzer, District Judge, Presiding

Argued and Submitted October 17, 2007  
San Francisco, California

Before: WALLACE, KLEINFELD, and RAWLINSON, Circuit Judges.

Appellant Richard Aguilar appeals the denial of disability benefits under his former employer's ERISA plan following a bench trial.

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

We review the district court's finding of fact for clear error. *Friedrich v. Intel Corp.*, 181 F.3d 1105, 1109 (9th Cir. 1999). Under this standard, so long as the district court's findings are "plausible in light of the record viewed in its entirety, the court of appeals may not reverse it even though convinced that had it been sitting as the trier of fact, it would have weighed the evidence differently." *Anderson v. Bessemer City*, 470 U.S. 564, 573-74 (1985) (emphasis added).

The district court did not clearly err in concluding that the evidence submitted by Aguilar failed to demonstrate the onset of his disability as of December 4, 2000.

The parties agreed that the Diagnostic and Statistical Manual of Mental Disorders (DSM) governed the interpretation of Aguilar's Global Assessment of Functioning (GAF) score of 65. There was no evidence in the record that such a score reflected a mental disability. Moreover, the rating doctor did not provide a disability statement to Aguilar.

The district court also did not clearly err when it discredited Dr. Rennert's disability determination, as Dr. Rennert provided no objective basis to support his opinion.

**AFFIRMED.**