

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

MUTUAL BENEFIT INSURANCE
COMPANY,

Plaintiff-Appellee,

v.

CLIFFORD E. McDONALD, JR.,

Intervenor/Defendant-Appellant,

and

MICHAEL C. KELLY,

Defendant.

No. 02-2062

Appeal from the United States District Court
for the District of Maryland, at Baltimore.
Benson Everett Legg, Chief District Judge.
(CA-01-1129-L)

Submitted: March 12, 2003

Decided: March 25, 2003

Before WIDENER, GREGORY, and SHEDD, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Irwin E. Weiss, Baltimore, Maryland; Jerome J. Seidenman, JEROME J. SEIDENMAN, P.A., Baltimore, Maryland, for Appellant. William C. Parler, Jr., PARLER & WOBBER, Towson, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

Clifford McDonald appeals the district court's order entering a declaratory judgment in favor of Mutual Benefit Insurance Co. on its claim that Michael Kelly was a non-permissive user of a vehicle owned by Multi-Complex Contractors that Kelly was driving during a motor vehicle accident on June 24, 2000. McDonald also appeals the district court's order denying his motion to alter or amend judgment and for a new trial. We affirm.

We review the district court's conclusions of law de novo, and its findings of facts for clear error. *Minyard Enter., Inc. v. Southeastern Chem. & Solvent Co.*, 184 F.3d 373, 380 (4th Cir. 1999); Fed. R. Civ. P. 52(a). We have reviewed the parties' briefs, the joint appendix, and the supplemental joint appendix and conclude the district court properly entered judgment in favor of Mutual Benefit because Kelly was operating the vehicle while under the influence of alcohol in violation of Multi-Complex policy and therefore was a non-permissive user of the vehicle. See *Washington Metro. Area Transit Auth. v. Bullock*, 509 A.2d 1217, 1225 (Md. Ct. Spec. App. 1986). Accordingly, we affirm on the reasoning of the district court. See *Mutual Benefit Ins. Co. v. McDonald*, No. CA-01-1129-L (D. Md. July 12, 2002 & Sept. 4, 2002). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED