

UNPUBLISHED

**UNITED STATES COURT OF APPEALS**  
**FOR THE FOURTH CIRCUIT**

PAUL V. COTTRELL,  
*Plaintiff-Appellant,*

v.

CSX TRANSPORTATION,  
INCORPORATED, a Florida corporation,  
*Defendant-Appellee.*

No. 01-2323

Appeal from the United States District Court  
for the Southern District of West Virginia, at Charleston.  
Joseph Robert Goodwin, District Judge.  
(CA-00-770-2)

Submitted: March 25, 2002

Decided: April 8, 2002

Before WILKINS, LUTTIG, and MOTZ, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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**COUNSEL**

Patrick L. Cottrell, Charleston, West Virginia, for Appellant. Anne Gordon Greever, Barry T. Meek, HUNTON & WILLIAMS, Richmond, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

**OPINION**

## PER CURIAM:

Paul V. Cottrell appeals the district court's order granting summary judgment in favor of CSX Transportation, Inc. ("CSX") on his claims arising under the Employee Retirement Income Security Act of 1974 (ERISA), as amended, 29 U.S.C.A. §§ 1001-1461 (West 1999 & Supp. 2001). Cottrell argues he is entitled to thirteen years of pension benefits for the period between 1963 and 1976 under the terms of an employee pension plan in effect during his employment with CSX and its predecessor, Chesapeake & Ohio Railway Company.

We review the district court's grant of summary judgment de novo, applying the same standards employed by the district court. *Ellis v. Metropolitan Life Ins. Co.*, 126 F.3d 228, 232 (4th Cir. 1997). The denial of benefits under ERISA is reviewed de novo unless the plan gives the administrator or fiduciary discretionary authority to construe the terms of the plan or to determine whether a participant is eligible for benefits. *Firestone Tire & Rubber Co. v. Bruch*, 489 U.S. 101, 115 (1989). If the plan confers discretionary authority, the decision is reviewed for abuse of discretion, and the decision will not be disturbed if it is reasonable. *Booth v. Wal-Mart Stores, Inc. Assocs. Health & Welfare Plan*, 201 F.3d 335, 341-42 (4th Cir. 2000).

We have reviewed the parties' briefs, the joint appendix and the district court's order. We conclude the Plan's administrators did not err when they determined Cottrell had not met the requirements for membership in the Plan during the year 1963 and therefore affirm on the reasoning of the district court. *Cottrell v. CSX Transp., Inc.*, No. CA-00-770-2 (S.D.W. Va. Oct. 19, 2001). 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*