

NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

File Name: 08a0469n.06

Filed: August 5, 2008

No. 07-3830

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

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| NIKOLA LJUBISAVLJEVIC, |) | |
| |) | |
| Plaintiff-Appellant, |) | |
| |) | ON APPEAL FROM THE UNITED |
| v. |) | STATES DISTRICT COURT FOR THE |
| |) | SOUTHERN DISTRICT OF OHIO |
| NATIONAL CITY CORPORATION, |) | |
| |) | |
| Defendant-Appellee. |) | OPINION |
| |) | |
| _____ |) | |

Before: KENNEDY, GILMAN, and GIBBONS, Circuit Judges.

RONALD LEE GILMAN, Circuit Judge. Nikola Ljubisavljevic (Jevic), a former senior vice president of Provident Bank, sued National City Corporation (National City) to recover additional severance benefits that he believed he was owed. The sole issue on appeal in this case is whether a negotiated provision of a merger agreement between Provident Bank and National City created a severance plan governed by ERISA. Specifically, the parties dispute the meaning of one section of the merger agreement; there are no facts in dispute. Jevic moved for judgment on the administrative record pursuant to Rule 52(a) of the Federal Rules of Civil Procedure. National City similarly moved for judgment on the administrative record or, in the alternative, summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. The district court granted National

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City's motion for judgment as a matter of law and dismissed Jevic's claims. This timely appeal followed.

After carefully considering the record on appeal, the briefs of the parties, and the applicable law, we agree with the district court's grant of judgment as a matter of law to National City. Because the reasoning that supports the judgment for National City has been clearly articulated by the Magistrate Judge in his thorough and comprehensive Report and Recommendation and reviewed de novo by the District Judge, the issuance of a detailed written opinion by us would be unduly duplicative. The judgment rendered by The Honorable Herman J. Weber, Senior District Judge of the United States District Court for the Southern District of Ohio, is accordingly affirmed on the basis of the reasoning detailed in his Order dated May 30, 2007.