

**UNITED STATES COURT OF APPEALS**  
**TENTH CIRCUIT**

---

**OCT 2 2003**

**PATRICK FISHER**  
Clerk

DAVID E. DURAN,

Plaintiff-Appellant,

v.

COORS BREWING CO.,

Defendant-Appellee.

No. 03-1197

District of Colorado

(D.C. No. 02-WY-554-AJ)

---

**ORDER AND JUDGMENT \***

---

Before **TACHA**, Chief Judge, **McKAY**, and **McCONNELL**, Circuit Judges.

---

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). This case is therefore submitted without oral argument.

After termination from his employment at Coors Brewing Co., plaintiff-appellant David Duran filed a discrimination suit charging that his employer discriminated against him on the basis of age and race. He appears pro se. Coors

---

\*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

filed a motion for summary judgment. Mr. Duran failed to file a timely written response to the motion for summary judgment. After being granted an extension of time to respond and being warned that failure to respond would result in dismissal of the suit, the district court found that Mr. Duran had failed to file a response, and accordingly entered a judgment in favor of Coors.

In his handwritten brief in this Court, Mr. Duran informs us that “I hand delived [sic] the papers that [opposing counsel] wanted on 1-10-03.”

Unfortunately, however, the district court record contains no such “papers”; nor does Mr. Duran attach them to his brief in this Court or otherwise offer any evidence in support of his statement. His bare assertion provides no basis for overturning the district court’s decision.

The order of the district court is AFFIRMED. The plaintiff-appellant’s motion for leave to proceed in forma pauperis, is GRANTED.

Entered for the Court

Michael W. McConnell  
Circuit Judge