

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

Curtis H. Smith v. Richard S. Schweiker, Secretary of Health and Human Services

646 F.2d 1075 (5th Cir. 1981) · No. No. 79-3615 · Decided June 4, 1981

SUMMARY

The Fifth Circuit reviewed the termination of Curtis H. Smith's Social Security Disability Insurance and Supplemental Security Income benefits. The court held that the Secretary's decision was not supported by substantial evidence because it inadequately weighed the treating physician's opinions, post-hearing medical evidence, and Smith's subjective complaints of pain. The court reversed and remanded for a full evaluation of the record.

CASE DETAILS

COURT	United States Court of Appeals for the Fifth Circuit
WRITING FOR THE COURT	John R. Brown; Coleman; Gee
JURISDICTION	Federal
DECIDED	June 4, 1981
DOCKET	No. 79-3615
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Smith sought judicial review under 42 U.S.C. §§ 405(g) and 1383(c) of the Secretary's termination of his Social Security Disability Insurance Benefits and Supplemental Security Income. The district court granted summary judgment for the Secretary, and Smith appealed.
STANDARD OF REVIEW	Under § 205(g) of the Social Security Act, factual findings of the Secretary are conclusive if supported by substantial evidence. The reviewing court may not reweigh evidence or substitute its judgment for the Secretary's, but must scrutinize the entire record to determine whether substantial evidence supports the decision.
PRECEDENTIAL VALUE	Published precedential Fifth Circuit opinion
PARTIES	Curtis H. Smith v. Richard S. Schweiker, Secretary of Health and Human Services

TOPICS

judicial review of agency action

administrative law

disability definition

PRACTICE AREAS

Social Security disability benefits

administrative law

judicial review of agency action

QUESTIONS PRESENTED

1. Whether substantial evidence on the record as a whole supported the Secretary's termination of Smith's disability benefits as of November 1977.
2. Whether the ALJ and Appeals Council properly evaluated the treating physician's evidence, Smith's subjective complaints of pain, and post-hearing medical evidence.
3. Whether the Secretary's decision could be sustained when it relied substantially on a one-time consultative examination and did not adequately address later evidence of continuing disability.

HOLDINGS

1. The Secretary's decision terminating Smith's disability benefits was not supported by substantial evidence when the record was considered as a whole.
2. The opinion of a treating physician with substantial familiarity with a claimant's injuries, treatment, and response should receive considerable weight absent good cause to the contrary.
3. Subjective complaints of pain and disability may not be disregarded merely because they lack complete support from objective clinical or laboratory findings.
4. The Appeals Council must adequately evaluate relevant post-hearing evidence bearing on disability; perfunctory adherence to the ALJ's decision is insufficient when the evidence could affect the determination.

KEY QUOTATIONS

"This very narrow ambit of judicial review, however, does not excuse us from our responsibility to scrutinize the record in its entirety to determine whether substantial evidence does support the Secretary's findings." (646 F.2d at 1077)

"unless there is good cause shown to the contrary the testimony of the treating physician must be accorded substantial weight." (646 F.2d at 1081)

"a physical limitation which prevents the claimant from working a full work day, minus a reasonable time for lunch and breaks, constitutes a disability within the meaning of the Social Security Act." (646 F.2d at 1082)

"'Substantial evidence' has been defined as more than a scintilla and must do more than create a suspicion of the existence of the facts to be established." (646 F.2d at 1083)

FACTUAL BACKGROUND

Smith sustained serious neck and back injuries in a May 23, 1974 car-tractor accident and underwent spinal fusion surgery in October 1974. He continued to report severe back and leg pain, limited ability to sit, stand, bend, or lift, and a need for lengthy rest periods; treating and consulting physicians documented residual spinal impairment and continuing functional limitations. Although a one-time consultative examiner opined that Smith could perform sedentary work, later medical reports indicated deterioration, continued pain, and inability to engage in gainful employment.

PROCEDURAL HISTORY

Smith had been awarded disability benefits based on injuries sustained in a 1974 car-tractor accident. An ALJ terminated his disability status as of November 1977, and the Appeals Council adopted that decision after considering additional evidence. The district court affirmed the Secretary's decision, concluding that the proper legal standards had been applied and that substantial evidence supported the termination. The Fifth Circuit reversed and remanded for evaluation of the entire record, including post-1977 evidence.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court was instructed to return the case to the Secretary for a full evaluation under the controlling principles and on the entire record, including the new evidence submitted after 1977 and any further new evidence received by the ALJ.

CASES CITED

- *Fruge v. Harris*, 631 F.2d 1244 (5th Cir. 1980)
- *Epps v. Harris*, 624 F.2d 1267 (5th Cir. 1980)
- *Fortenberry v. Harris*, 612 F.2d 947 (5th Cir. 1980)
- *Newborn v. Harris*, 602 F.2d 105 (5th Cir. 1979)
- *Chaney v. Califano*, 588 F.2d 958 (5th Cir. 1979)
- *Young v. Califano*, 581 F.2d 549 (5th Cir. 1978)
- *Mims v. Califano*, 581 F.2d 1211 (5th Cir. 1978)
- *Rhynes v. Califano*, 586 F.2d 388, 390 (5th Cir. 1978)
- *Laffon v. Califano*, 558 F.2d 253 (5th Cir. 1977)
- *Flowers v. Harris*, 616 F.2d 776 (5th Cir. 1980)
- *Simmons v. Harris*, 602 F.2d 1233 (5th Cir. 1979)
- *Johnson v. Harris*, 612 F.2d 993, 997-98 (5th Cir. 1980)
- *Strickland v. Harris*, 615 F.2d 1103, 1106 (5th Cir. 1980)
- *DePaepe v. Richardson*, 464 F.2d 92, 94 (5th Cir. 1972)
- *Western v. Harris*, 633 F.2d 1204 (5th Cir. 1981)

- Page v. Celebrezze, 311 F.2d 757, 760 (5th Cir. 1963)
- Gaultney v. Weinberger, 505 F.2d 943 (5th Cir. 1974)
- Cornett v. Califano, 590 F.2d 91 (4th Cir. 1978)
- Williams v. Finch, 440 F.2d 613, 617 n.6 (5th Cir. 1971)
- Williams v. Califano, 590 F.2d 1332, 1334 (5th Cir. 1979)
- Mann v. Gardner, 380 F.2d 182, 187 (5th Cir. 1967)
- Richardson v. Perales, 402 U.S. 389, 401 (1971)
- NLRB v. Columbian Enameling & Stamping Co., 306 U.S. 292, 300 (1939)
- Consolidated Edison Co. v. NLRB, 305 U.S. 197, 209 (1938)
- McDaniel v. Harris, 639 F.2d 1386, 1388 (5th Cir. 1981)
- Myers v. Richardson, 471 F.2d 1265, 1268 (6th Cir. 1972)
- Miracle v. Celebrezze, 351 F.2d 361, 379 (6th Cir. 1965)