

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

Staunton C. Stonestreet v. Secretary of Health, Education and Welfare

494 F.2d 342 (4th Cir. 1974) · No. No. 73-1898 · Decided March 20, 1974

SUMMARY

The Fourth Circuit affirmed the denial of Staunton C. Stonestreet's application for Social Security disability benefits. The court held that administrative res judicata barred the claim because the new medical evidence was cumulative and did not establish new and material evidence, and it found substantial evidence supporting the Secretary's decision.

CASE DETAILS

COURT	United States Court of Appeals for the Fourth Circuit
WRITING FOR THE COURT	Widener; Bryan, Senior Circuit Judge; Winter, Circuit Judge; Widener, Circuit Judge
JURISDICTION	Federal
DECIDED	March 20, 1974
DOCKET	No. 73-1898
DISPOSITION	affirmed
PROCEDURAL POSTURE	Stonestreet appealed the district court's grant of the Secretary's motion for summary judgment in an action under section 205(g) of the Social Security Act seeking review of the denial of disability benefits.
STANDARD OF REVIEW	The court reviewed the Secretary's decision for substantial evidence and applied the administrative res judicata standard governing reopening of prior Social Security determinations, including whether new and material evidence was presented.
PRECEDENTIAL VALUE	Published Fourth Circuit opinion
PARTIES	Staunton C. Stonestreet v. Secretary of Health, Education and Welfare

TOPICS

- administrative law
- judicial review of agency action
- standard of review
- appellate procedure
- health law

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether administrative res judicata barred Stonestreet's fourth application for disability benefits.
2. Whether the application could be reopened based on new and material evidence.
3. Whether the Secretary's finding that Stonestreet was not disabled before September 30, 1958, was supported by substantial evidence.

HOLDINGS

1. Administrative res judicata bars a subsequent Social Security claim when the claimant has not submitted new and material evidence warranting reopening and the prior determination resolved the same essential disability issue.
2. The Secretary's determination that Stonestreet was not disabled within the meaning of the Social Security Act before September 30, 1958, was supported by substantial evidence.

FACTUAL BACKGROUND

Stonestreet claimed that a back injury from a 1953 automobile accident rendered him unable to work and, in his current application, also asserted that two doctors believed he had heart trouble. His current application was substantially the same as three prior applications, all of which had been denied. The only significant new evidence consisted of two medical reports from Dr. Kuhn, who had also provided evidence in each prior proceeding; the Secretary found those reports cumulative. Stonestreet had not shown inability to engage in substantial gainful employment before September 30, 1958, the date his insured status ended.

PROCEDURAL HISTORY

Stonestreet filed a fourth application for disability benefits based substantially on the same allegations asserted in three prior applications. The hearing examiner considered new medical reports but found them cumulative and denied the application. The district court granted the Secretary's motion for summary judgment, concluding that administrative res judicata barred the claim and, alternatively, that the Secretary's findings were supported by substantial evidence. The Fourth Circuit affirmed.

DISPOSITION

affirmed

CASES CITED

- *Leviner v. Richardson*, 443 F.2d 1338 (4th Cir. 1971)
- *Everett v. Secretary of HEW*, 412 F.2d 842 (4th Cir. 1969)
- *James v. Gardner*, 384 F.2d 784 (4th Cir. 1967)

OPINION

WIDENER, J.

494 F.2d 342 Staunton C. STONESTREET, Appellant, v. SECRETARY OF HEALTH, EDUCATION AND WELFARE, Appellee. No. 73-1898. United States Court of Appeals, Fourth Circuit. Argued Dec. 6, 1973. Decided March 20, 1974. Robert N. Bland for appellant. Ray L. Hampton, II, Asst. U.S. Atty. (John A. Field, III, U.S. Atty., on brief) for appellee.

Before BRYAN, Senior Circuit Judge, and WINTER and WIDENER, Circuit judges. WIDENER, Circuit Judge: 1 This is an appeal from an action under 205(g) of the Social Security Act, 42 U.S.C. 405(g), to review a final decision of the Secretary of Health, Education and Welfare (Secretary) which denied Stonestreet's application for disability benefits.

The district court granted the Secretary's motion for summary judgment. 2 This is Stonestreet's fourth application for disability benefits under 216(i) and 223 of the Act, 42 U.S.C. 416(i) and 423. His application contains substantially the same allegations as the other three, which were denied and the denials affirmed by the Appeals Council. Denial of the third application was also affirmed by the district court (S.D.W.Va.) in May of 1965.

In all four of his applications, Stonestreet alleges that he became unable to work in September, 1953, because of a back injury incurred in an automobile accident. In his current application, he also alleges that two doctors thought he had heart trouble. 3 The hearing examiner concluded that the doctrine of administrative res judicata did not apply to Stonestreet's present application because of the change of standard for impairment wrought by the 1965 amendments to the Act.

He then considered Stonestreet's new evidence, found that it was cumulative, and denied his application. The district court concluded that administrative res judicata should have barred claimant's application, but, in any event, the trial examiner's findings (which became those of the secretary) were supported by substantial evidence.

We affirm. 4 A full discussion of the doctrine of administrative res judicata as it applies in Social Security proceedings is found in *Leviner v. Richardson*, 443 F.2d 1338 (4th Cir. 1971). There we held that the doctrine in administrative proceedings does not have the same aura of rigid finality as in judicial proceedings, and that a prior Social Security determination should not be res judicata where new and material evidence is offered.

In this case, the only new evidence of any consequence consisted of two new medical reports of a Dr. Kuhn, who had also submitted medical reports or testified concerning this claimant in each of the three prior hearings.

The Secretary concluded that the new reports were merely cumulative and added nothing to the evidence considered previously. It is clear that the Secretary's decision was supported by

substantial evidence and, had it not been for the 1965 amendment to 42 U.S.C. 416(i), he would have held the application barred by the doctrine of administrative res judicata.

5 In all of one claimant's prior applications, the Secretary concluded that Stonestreet had failed to show impairments which would prohibit him from engaging in substantial gainful employment prior to September 30, 1958, the date on which he last met the earnings requirements for disability purposes.

The 1965 amendment to 42 U.S.C. 416(i) did not change this element of disability under the Act, but simply liberalized the time requirement by providing that such 'inability to engage in substantial gainful employment' need last or 'be expected to last for more than 12 months' rather than the previous requirement of a 'long and indefinite duration.'

We have previously held in an almost identical situation that where the claimant failed to establish that he had been unable to engage in substantial gainful activity at any time before the end of his insured status, the effect of the 1965 amendment need not be reached. *Everett v. Secretary of HEW*, 412 F.2d 842 (4th Cir. 1969).

Thus, since the 1965 amendment is not reached, it would not preclude a finding of res judicata as to the first element of disability (that claimant be found unable 'to engage in substantial gainful employment'). See *James v. Gardner*, 384 F.2d 784 (4th Cir. 1967).

The only question, then, which could properly have been before the district court, was whether there was new and material evidence as defined in *Leviner* in order to permit a reopening of the merits of the case. He applied the proper standard and found no such new and material evidence, and we agree.

We are of opinion res judicata bars the plaintiff's claim. 6 Parenthetically, we should say that the record indicates there is substantial evidence to support the finding by the Secretary of no disability within the meaning of the statute prior to September 30, 1958. 7 Affirmed.