

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Christopher A. Obrien v. Frank Bisignano

142 F.4th 687 (9th Cir. 2025) · No. 22-55360 · Decided July 1, 2025

SUMMARY

The Ninth Circuit reversed the district court’s judgment upholding the denial of Christopher A. Obrien’s applications for disability insurance benefits and supplemental security income. The court held that Obrien had not forfeited his challenges to the determination that his prior telemarketing work constituted past relevant work and that substantial evidence did not support that determination, requiring remand for further proceedings.

CASE DETAILS

COURT	United States Court of Appeals for the Ninth Circuit
WRITING FOR THE COURT	Daniel P. Collins; Jacqueline H. Nguyen; Holly A. Thomas
JURISDICTION	United States Court of Appeals for the Ninth Circuit
DECIDED	July 1, 2025
DOCKET	22-55360
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a district court judgment upholding the Social Security Administration ALJ's denial of disability insurance benefits and supplemental security income.
STANDARD OF REVIEW	The court reviewed de novo the district court's order affirming the ALJ's denial of benefits and reviewed the ALJ's decision through the same lens as the district court. Questions of law were reviewed de novo, and absent legal error the denial could be disturbed only if the ALJ's decision was unsupported by substantial evidence.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Christopher A. Obrien v. Frank Bisignano, Commissioner of Social Security

TOPICS

- administrative law
- judicial review of agency action
- exhaustion of remedies
- standard of review
- appellate procedure

PRACTICE AREAS

Social Security disability benefits

administrative law

appellate procedure

QUESTIONS PRESENTED

1. Whether Obrien forfeited in the district court his objections to the Commissioner's administrative-forfeiture arguments by failing to address them in his optional reply.
2. Whether a judicially created issue-exhaustion requirement barred Obrien from challenging in federal court the ALJ's finding that his telemarketing work constituted past relevant work when he had not specifically raised that challenge before the ALJ.
3. Whether substantial evidence supported the ALJ's determination that Obrien's 2003 telemarketing work was past relevant work under the applicable 15-year regulatory period.
4. Whether substantial evidence supported the ALJ's determination that Obrien's 2009 telemarketing work constituted substantial gainful activity, or whether ambiguities required further development of the record.

HOLDINGS

1. Obrien did not forfeit his objections to the Commissioner's administrative-forfeiture arguments by failing to expressly address those arguments in his optional district-court reply.
2. No judicially imposed administrative issue-exhaustion requirement barred Obrien from raising in federal court his challenge to the ALJ's finding that his telemarketing work qualified as past relevant work.
3. Substantial evidence did not support treating Obrien's 2003 telemarketing work as past relevant work because it fell outside the applicable 15-year regulatory period.
4. Substantial evidence did not support treating Obrien's 2009 telemarketing work as substantial gainful activity because critical ambiguities in the evidence required the ALJ to develop the record further.

KEY QUOTATIONS

"Accordingly, Obrien had no further responsibility to specifically flag the issue before the ALJ, and a judicially imposed issue-exhaustion requirement with respect to that issue is unwarranted under Carr."

"Where, as here, additional development of the record by the ALJ is required to permit an adequate determination, the ALJ's decision is not supported by substantial evidence and must be remanded for further proceedings."

FACTUAL BACKGROUND

Obrien alleged that medical conditions rendered him disabled beginning August 21, 2010. His work history included telemarketing in 2003 and 2009 and door-to-door sales work in 2013 and 2014. The ALJ found that Obrien could perform past relevant work as a telemarketer and sales representative, but the Commissioner conceded that substantial evidence did not support the sales-representative finding. The record was ambiguous regarding the duration and monthly earnings of the 2009 telemarketing work, including whether the work lasted three or four months and whether it was performed intermittently.

PROCEDURAL HISTORY

Obrien applied for Title II disability insurance benefits and Title XVI supplemental security income. An SSA ALJ denied the claims after finding that Obrien could perform past relevant work as a telemarketer and sales representative; the Appeals Council denied review. The district court upheld the denial, concluding that Obrien had forfeited and, alternatively, lacked merit in his challenges to the telemarketer finding. The Ninth Circuit reversed and remanded with instructions that the district court remand to the agency for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court must remand the matter to the Social Security Administration for further proceedings consistent with the opinion, including further development of the record concerning whether the 2009 telemarketing work constituted substantial gainful activity.

CASES CITED

- Woods v. Kijakazi, 32 F.4th 785, 787 n.1 (9th Cir. 2022)
- Wischmann v. Kijakazi, 68 F.4th 498, 504 (9th Cir. 2023)
- Tommasetti v. Astrue, 533 F.3d 1035, 1038 (9th Cir. 2008)
- Tidwell v. Apfel, 161 F.3d 599, 601 (9th Cir. 1998)
- Avenetti v. Barnhart, 456 F.3d 1122, 1125 (9th Cir. 2006)
- Biestek v. Berryhill, 587 U.S. 97, 103 (2019)
- Consolidated Edison Co. v. NLRB, 305 U.S. 197, 229 (1938)
- JL Beverage Co. v. Jim Beam Brands Co., 828 F.3d 1098, 1108 (9th Cir. 2016)
- United States v. Olano, 507 U.S. 725, 733 (1993)
- Brown v. Arizona, 82 F.4th 863, 873 (9th Cir. 2023) (en banc)
- Sabra v. Maricopa County Community College District, 44 F.4th 867, 881-82 (9th Cir. 2022)
- Sims v. Apfel, 530 U.S. 103, 107-12 (2000)
- Carr v. Saul, 593 U.S. 83, 88-96 (2021)
- Celaya v. Halter, 332 F.3d 1177, 1183-84 (9th Cir. 2003)
- Langere v. Verizon Wireless Services, LLC, 983 F.3d 1115, 1121 (9th Cir. 2020)
- Miller v. Gammie, 335 F.3d 889, 899-900 (9th Cir. 2003) (en banc)
- Meanel v. Apfel, 172 F.3d 1111, 1115 (9th Cir. 1999)
- Shaibi v. Berryhill, 883 F.3d 1102, 1105-06, 1109-10 (9th Cir. 2017)
- Revels v. Berryhill, 874 F.3d 648, 654 (9th Cir. 2017)
- SEC v. Chenery Corp., 318 U.S. 80, 87 (1943)
- Ford v. Saul, 950 F.3d 1141, 1156 (9th Cir. 2020)

- *Smolen v. Chater*, 80 F.3d 1273, 1288 (9th Cir. 1996)
- *Cooper v. Social Security Administration*, 131 F.4th 995, 1004 (9th Cir. 2025)

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