

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Hunter v. Astrue

254 F. App'x 604 (9th Cir. 2007) · Decided November 14, 2007

SUMMARY

The Ninth Circuit affirmed the denial of Kenneth W. Hunter's Social Security disability benefits. The court held that the ALJ gave specific and legitimate reasons for discounting a treating physician's opinion and properly relied on vocational-expert testimony that Hunter could perform security-guard work. The court also held that Hunter's incarceration history was not relevant to whether he was medically disabled under the Social Security Act.

CASE DETAILS

COURT	United States Court of Appeals for the Ninth Circuit
WRITING FOR THE COURT	Per curiam; Bybee; Hall; Zapata
JURISDICTION	Federal
DECIDED	November 14, 2007
DISPOSITION	affirmed
PROCEDURAL POSTURE	Hunter appealed the district court's order upholding the Commissioner's final denial of Social Security disability benefits.
STANDARD OF REVIEW	The Ninth Circuit reviews a district court's order upholding the Commissioner's final denial of benefits de novo. The Commissioner's decision is affirmed if supported by substantial evidence and based on proper legal standards.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Kenneth W. Hunter v. Michael J. Astrue, Commissioner of Social Security

TOPICS

judicial review of agency action

agency adjudication

standard of review

administrative law

appellate procedure

PRACTICE AREAS

Social Security disability

administrative law

appellate procedure

QUESTIONS PRESENTED

1. Whether the ALJ gave legally sufficient reasons for rejecting the treating physician's opinion.
2. Whether substantial evidence supported the ALJ's finding that Hunter could perform work as a security guard despite a conflict with the Dictionary of Occupational Titles.
3. Whether the ALJ was required to consider Hunter's incarceration history and resulting difficulty obtaining employment in determining disability.

HOLDINGS

1. The ALJ did not commit reversible error in rejecting Dr. Oba's opinion because the ALJ provided specific and legitimate reasons supported by the record for finding another medical opinion more persuasive.
2. The ALJ properly relied on vocational-expert testimony that Hunter could perform security-guard work and that such work existed in significant numbers in the national economy.
3. The ALJ properly refused to consider whether Hunter would actually obtain security-guard employment because of his incarceration history; disability is determined by whether the claimant can perform substantial gainful work existing in the national economy, not by whether an employer would hire him.

KEY QUOTATIONS

“The Commissioner’s decision must be affirmed if it was supported by substantial evidence and based on proper legal standards.” (606)

“only if his physical or mental ... impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether ... he would be hired if he applied for work.” (606-07)

“The Social Security Act is not an unemployment compensation act, but an act to compensate those who cannot work because of their medical disability.” (607)

FACTUAL BACKGROUND

Hunter sought Social Security disability benefits based on medical impairments, including physical limitations. The ALJ found the opinion of treating physician Dr. Oba less persuasive because Dr. Oba had seen Hunter only once, lacked identified specialized pulmonary training, relied on limited or old records and subjective complaints, and offered opinions unsupported by objective clinical findings. Relying on vocational-expert testimony, the ALJ found that Hunter could perform security-guard work existing in significant numbers in the national economy, notwithstanding his incarceration history.

PROCEDURAL HISTORY

An Administrative Law Judge denied benefits after rejecting the treating physician's opinion and finding that Hunter could perform work as a security guard. The district court upheld the Commissioner's final denial, and Hunter appealed to the Ninth Circuit. The Ninth Circuit affirmed.

DISPOSITION

affirmed

CASES CITED

- Ukolov v. Barnhart, 420 F.3d 1002, 1004 (9th Cir. 2005)
- Thomas v. Barnhart, 278 F.3d 947, 957 (9th Cir. 2002)
- Osenbrock v. Apfel, 240 F.3d 1157, 1162-63 (9th Cir. 2001)
- Johnson v. Shalala, 60 F.3d 1428, 1435 (9th Cir. 1995)
- Sorenson v. Weinberger, 514 F.2d 1112, 1117 (9th Cir. 1975) (per curiam)