

UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

Jack Bloodsworth v. Margaret M. Heckler, Secretary of Health and Human Services

1 Soc. Sec. Rep. Serv. 352 (11th Cir. 1983) · No. No. 82-5071 · Decided April 25, 1983

SUMMARY

The Eleventh Circuit held that a claimant may obtain judicial review under 42 U.S.C. § 405(g) of an Appeals Council denial of an untimely request for review. On the merits, the court concluded that the Secretary's determination that Jack Bloodsworth was not disabled was unsupported by substantial evidence because the ALJ improperly rejected treating-physician opinions and evidence of disabling pain. The court reversed the denial of benefits and held that Bloodsworth met his initial burden of proving disability from his former occupation.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                              |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States Court of Appeals for the Eleventh Circuit                                                                                                                                                                                                                                                                                                                      |
| WRITING FOR THE COURT | Vance, Circuit Judge; Anderson, Circuit Judge; Jones, Senior Circuit Judge                                                                                                                                                                                                                                                                                                   |
| JURISDICTION          | Federal                                                                                                                                                                                                                                                                                                                                                                      |
| DECIDED               | April 25, 1983                                                                                                                                                                                                                                                                                                                                                               |
| DOCKET                | No. 82-5071                                                                                                                                                                                                                                                                                                                                                                  |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                                                                                                                                                                                                        |
| PROCEDURAL POSTURE    | Appeal from a district court judgment affirming the Secretary's denial of Social Security disability benefits.                                                                                                                                                                                                                                                               |
| STANDARD OF REVIEW    | The court reviews the Secretary's decision under 42 U.S.C. § 405(g) and must affirm factual findings supported by substantial evidence. It may not decide facts anew, reweigh the evidence, or substitute its judgment for the Secretary's. The record must be scrutinized as a whole to determine whether the decision is reasonable and supported by substantial evidence. |
| PRECEDENTIAL VALUE    | Published federal appellate decision; precedential within the Eleventh Circuit subject to later authority.                                                                                                                                                                                                                                                                   |
| PARTIES               | Jack Bloodsworth v. Margaret M. Heckler, Secretary of Health and Human Services                                                                                                                                                                                                                                                                                              |

## TOPICS

judicial review of agency action

exhaustion of remedies

administrative law

standard of review

disability definition

## PRACTICE AREAS

Social Security disability

administrative law

federal appellate procedure

## QUESTIONS PRESENTED

1. Whether the federal district court had jurisdiction under 42 U.S.C. § 405(g) to review the Appeals Council's dismissal of an untimely request for review for lack of good cause.
2. Whether the Secretary's determination that Bloodsworth was not disabled from performing his former occupation was supported by substantial evidence.
3. Whether the evidence established disability under section 1.05(C) of Appendix I to Title 20 of the Code of Federal Regulations without consideration of vocational factors.

## HOLDINGS

1. An Appeals Council decision dismissing an untimely request for review without good cause is a final decision made after a hearing within the meaning of 42 U.S.C. § 405(g), and is subject to judicial review in federal district court.
2. The Secretary's determination that Bloodsworth was not disabled from performing his former occupation was not supported by substantial evidence.
3. Bloodsworth was not entitled to an automatic finding of disability under section 1.05(C) of Appendix I because the medical evidence did not establish the listed level of severity; vocational factors therefore had to be considered.

## KEY QUOTATIONS

*"The claimant may then appropriately appeal his case to the district court, as specified in 20 C.F.R. 404.981. By contrast, the interpretation for which the Secretary now argues would leave a claimant permanently in limbo."* (¶ 31)

*"We may not decide the facts anew, reweigh the evidence, or substitute our judgment for that of the Secretary."* (¶ 33)

*"Substantial evidence is more than a scintilla, but less than a preponderance. It is such relevant evidence as a reasonable person would accept as adequate to support a conclusion."* (¶ 34)

*"We find that the ALJ's rejection of the opinions of the treating physicians was without good cause, and the determination of non-disability based upon the diagnoses of the examining physicians is unsupported by substantial evidence."* (¶ 45)

*"REVERSED and REMANDED."* (¶ 57)

## FACTUAL BACKGROUND

Bloodsworth was a minimally literate man in his mid-fifties with a fourth-grade education who had worked as a drawbridge tender, park attendant, and welder. He had a history of lumbar disc surgery, degenerative osteoarthritis, degenerative lumbar disc disease, severe back pain, and substantial limitations of motion. Multiple physicians documented pain and functional limitations, while the consulting physician concluded that he could perform his former drawbridge-tender job based on an inaccurate understanding that the job was entirely sedentary.

## PROCEDURAL HISTORY

Bloodsworth applied for disability insurance benefits and supplemental security income. After denials by the agency and an administrative law judge, he filed an untimely request for Appeals Council review. The Appeals Council dismissed the request as untimely, but the district court held that it had jurisdiction to review the dismissal and remanded for consideration of the merits. The Appeals Council again denied review on the merits, the district court affirmed, and Bloodsworth appealed.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

Remand for a determination whether jobs exist in the national economy that Bloodsworth can perform, after recognizing that he met his initial burden of proving inability to perform his former occupation.

## CASES CITED

- *Califano v. Sanders*, 430 U.S. 99 (1977)
- *Langford v. Flemming*, 276 F.2d 215 (5th Cir. 1960)
- *Weinberger v. Salfi*, 422 U.S. 749 (1975)
- *Mathews v. Eldridge*, 424 U.S. 319 (1976)
- *Sheehan v. Secretary of Health, Education and Welfare*, 593 F.2d 323 (8th Cir. 1979)
- *Allen v. Schweiker*, 642 F.2d 799 (5th Cir. 1981)
- *Warncke v. Harris*, 619 F.2d 412 (5th Cir. 1980)
- *Ware v. Schweiker*, 651 F.2d 408 (5th Cir. 1981)
- *Lewis v. Weinberger*, 515 F.2d 584 (5th Cir. 1975)
- *Simmons v. Harris*, 602 F.2d 1233 (5th Cir. 1979)
- *Scharlow v. Schweiker*, 655 F.2d 645 (5th Cir. 1981)
- *Richardson v. Perales*, 402 U.S. 389 (1971)
- *Walden v. Schweiker*, 672 F.2d 835 (11th Cir. 1982)
- *Oldham v. Schweiker*, 660 F.2d 1078 (5th Cir. 1981)
- *Fruge v. Harris*, 631 F.2d 1244 (5th Cir. 1980)

- Johnson v. Harris, 612 F.2d 993 (5th Cir. 1980)
- Williams v. Finch, 440 F.2d 613 (5th Cir. 1971)
- Mims v. Califano, 581 F.2d 1211 (5th Cir. 1978)
- De Paepe v. Richardson, 464 F.2d 92 (5th Cir. 1972)
- Smith v. Schweiker, 646 F.2d 1075 (5th Cir. 1981)
- Rodriguez v. Schweiker, 640 F.2d 682 (5th Cir. 1981)
- Kirkland v. Weinberger, 480 F.2d 46 (5th Cir. 1973)
- Epps v. Harris, 624 F.2d 1267 (5th Cir. 1980)
- Flood v. Schweiker, 643 F.2d 1138 (5th Cir. 1981)
- Benson v. Schweiker, 652 F.2d 406 (5th Cir. 1981)
- Davis v. Califano, 599 F.2d 1324 (5th Cir. 1979)
- Wiggins v. Schweiker, 679 F.2d 1387 (11th Cir. 1982)

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