

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LUVERTIS JOHNSON : CIVIL ACTION  
: :  
v. : :  
: :  
JO ANNE B. BARNHART, : :  
Commissioner of Social Security : NO. 04-05600-JF

MEMORANDUM AND ORDER

Fullam, Sr. J.

May 3, 2005

Plaintiff applied for disability benefits on November 3, 2002, alleging disability from and after January 15, 2002. Her application was denied initially, and plaintiff requested an ALJ hearing. The ALJ hearing took place on July 6, 2004.

Plaintiff was not represented by counsel. On the basis of somewhat conflicting medical evidence, and largely discounting plaintiff's testimony, the ALJ denied benefits. This appeal followed.

At the hearing on cross-motions for summary judgment, held May 3, 2005, plaintiff again appeared pro se. It appears that, since the ALJ hearing in this case, plaintiff has experienced additional difficulties and, in November 2004, filed a new application for benefits. She was advised that she appeared to be ineligible for SSI benefits (no reason given) but could apply for disability insurance benefits. Her application for disability insurance benefits is pending. She has been referred to, and been examined by, a physician employed by the

Social Security Administration, and has been informed that her disability is caused by reflexive sympathetic dystrophy ("RSD"), which does not show up on X-rays or MRI's.

At the hearing in this court, plaintiff appeared to be in considerable pain and distress. She exhibited some signs of non-physical impairments.

Rather than parse the record to determine whether substantial evidence supports the ALJ's decision for the period initially claimed, I consider it preferable to remand the record to the Secretary, to afford an opportunity for the ALJ to consider whether to reopen the present record and combine it with the now-pending November 2004 application. On this record, the ALJ might determine that the more recent medical evidence sheds light upon the medical evidence presented at the initial hearing, sufficient to justify reopening that proceeding. Or, the ALJ may conclude that although the original decision was correct, plaintiff is indeed now disabled and entitled to benefits for some period of time. I express no view as to the merits of any of these issues.

An Order follows.

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ORDER

AND NOW, this 3rd day of May 2005, IT IS ORDERED:

The cross-motions for summary judgment are both DENIED, without prejudice. This matter is REMANDED to the Commissioner for further proceedings in accordance with the views expressed in the accompanying Memorandum.

BY THE COURT:

/s/ John P. Fullam  
John P. Fullam, Sr. J.