

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

STANLEY ERIC RAY : CIVIL ACTION  
: :  
v. : :  
: :  
JO ANNE BARNHART, : :  
Commissioner of Social : :  
Security Administration : : NO. 04-03931-JF

MEMORANDUM AND ORDER

Fullam, Sr. J.

May 19, 2005

On July 8, 2003, I remanded this case for further evaluation, noting (1) that there was a great deal of uncontradicted evidence which supported plaintiff's claim that he was disabled, and (2) that the ALJ had not dealt with the evidence concerning plaintiff's non-exertional (psychiatric) limitations.

The ALJ held a further hearing on May 10, 2004, and rendered a decision on June 18, 2004, again denying plaintiff's claim for benefits.

Plaintiff appealed to this court, the parties filed cross-motions for summary judgment, and the case was referred to Magistrate Judge Charles Smith for a report and recommendation. Judge Smith has filed a report and recommendation, suggesting that the case again be referred to the administrative law judge because she did not comply with the terms of the earlier remand. Plaintiff has filed objections to the magistrate's report,

contending that further delay is intolerable and unjustified, and that the record demonstrates that plaintiff is entitled to an award of benefits. I agree with plaintiff.

It is unfortunate, but clearly true, that the ALJ took umbrage at the remand, and felt that this court had intruded upon her domain. The transcript of the May 10, 2004 hearing reflects little more than a fixed determination to deny benefits. Although the case was remanded for consideration of plaintiff's non-exertional impairments, that issue was brushed aside, for the stated reason that plaintiff had not been hospitalized recently, and declined to take various medications which had been prescribed over the years, because of their intolerable side effects.

In order to arrive at a conclusion that the plaintiff is not disabled, it is necessary to discount the opinions of all of his treating physicians, ignore the undisputed evidence concerning plaintiff's lifestyle and daily activities (trouble sleeping, walking the halls at night, auditory hallucinations, etc.). It would also be necessary to discount the principal thrust of the vocational expert's testimony and the impartial state medical evaluator.

The Social Security Administrators have been afforded an opportunity to justify their decisions denying benefits, but

have failed to provide such justification. This case will be remanded for the award of benefits.

An Order follows.

