

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-51225
Summary Calendar

MARY L. LUCAS,

Plaintiff-Appellant,

versus

JO ANNE B. BARNHART, COMMISSIONER OF SOCIAL SECURITY,

Defendant-Appellee.

Appeal from the United States District Court
for the Western District of Texas
USDC No. A-00-CV-724-SC

September 10, 2002

Before HIGGINBOTHAM, SMITH, and CLEMENT, Circuit Judges.

PER CURIAM:*

Mary L. Lucas appeals the district court's judgment affirming the denial of her application for disability insurance benefits and supplemental security income. Lucas contends that the determination of the Administrative Law Judge ("ALJ") regarding her disability status was not supported by substantial evidence. Specifically, she asserts that the ALJ erred in disregarding the opinion of Dr. D. M. Hamilton, failing to determine the treatment relationship between Lucas and Dr. Willis

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Thorstad, failing to consider the combined effect of all of her impairments, and finding that she could perform her past relevant work as a CD packer. Because Lucas failed to present this latter issue in district court, review is for plain error. See Kinash v. Callahan, 129 F.3d 736, 739 n.10 (5th Cir. 1997). Any error must be "'plain' and 'affect substantial rights.'" Id. Lucas does not allege, and the record does not indicate, that this court's failure to consider the instant issue will affect her substantial rights. Therefore, she has not shown plain error.

The ALJ explicitly considered the combined effect of all of Lucas's impairments. Furthermore, although the Appeals Council subsequently included Dr. Thorstad's medical opinion into the administrative record, his opinion was not part of the record at the time of the ALJ's decision. Accordingly, the ALJ had no basis for determining the treatment relationship between Lucas and Dr. Thorstad. Based on our review of the record, the ALJ's decisions disregarding Dr. Hamilton's opinion and denying benefits to Lucas were supported by substantial evidence.

AFFIRMED.