

May 1, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-30678
Summary Calendar

PATRICK MARTYN,

Plaintiff-Appellant,

versus

JO ANNE B. BARNHART, COMMISSIONER OF SOCIAL SECURITY,

Defendant-Appellee.

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 01-CV-1582-T

Before DAVIS, WIENER, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Patrick Martyn ("Martyn") appeals the district court's affirmance of the Social Security Commissioner's decision to deny Martyn's request for a waiver of repayment of overpaid disability benefits. Martyn argues that 1) he was denied due process when the administrative law judge denied his waiver request without conducting a supplemental evidentiary hearing and without fully developing the record, 2) he was not at fault with respect to the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

overpayment and was thus entitled to the waiver; 3) repayment of the overpaid benefits would deprive him of income needed for ordinary living expenses and would thus defeat the purpose of the Social Security Act; and 4) a claims representative altered figures in Martyn's file with respect to his expenses.

Martyn has failed to demonstrate that he was prejudiced by the ALJ's deciding his case without conducting a supplemental hearing and without further developing the record. See Carey v. Apfel, 230 F.3d 131, 142 (5th Cir. 2000).

As for Martyn's remaining claims, all raised for the first time in this appeal, Martyn presents no reason why he could not have presented these claims to the district court. Nor does Martyn establish exceptional circumstances warranting our review of these claims. See Chambliss v. Massanari, 269 F.3d 520, 523 (5th Cir. 2001); Kinash v. Callahan, 129 F.3d 736, 738 n.10 (5th Cir. 1997).

The district court's affirmance of the Social Security Commissioner's decision is AFFIRMED.