

December 4, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-40807
Summary Calendar

SHELIA R. BEAUMONT,

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 Texas
USDC No. 1:02-CV-313

Before HIGGINBOTHAM, DAVIS, and PRADO, Circuit Judges.

PER CURIAM:*

Shelia R. Beaumont filed a complaint seeking review of a final decision of the Commissioner of Social Security ("the Commissioner") denying her application for Supplemental Security Income benefits. See 42 U.S.C. § 405(g). After the Commissioner answered Beaumont's complaint, the Commissioner moved the district court to reverse the agency's decision and to remand the matter for further administrative proceedings.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

The district court granted the motion and remanded the matter pursuant to the fourth sentence of 42 U.S.C. § 405(g).

The fourth sentence of 42 U.S.C. § 405(g) provides that "[t]he [district] court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing." 42 U.S.C. § 405(g). Beaumont argues that there is no basis for a remand and that she is entitled to an award of benefits because she meets the requirements for listed impairments pursuant to 20 C.F.R. Pt. 404, Subpt. P, App. 1, §§ 12.05(C) and (D). The Commissioner argues that the record contain inconsistencies and conflicts which require further administrative review.

After an examination of the record, we agree with the Commissioner that the record contains inconsistencies and unresolved issues that preclude an immediate award of benefits. "Conflicts in the evidence are for the [Commissioner] and not the courts to resolve." Newton v. Apfel, 209 F.3d 448, 452 (5th Cir. 2000). Accordingly, the judgment of the district court reversing the Commissioner's decision and remanding the matter for further administrative proceedings is AFFIRMED. We deem it unnecessary to resolve the parties' dispute over the applicable standard of review.

AFFIRMED.