

April 11, 2005

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 04-30630  
Summary Calendar

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KELVIN PAUL WELLS, SR.,

Plaintiff-Appellant,

versus

JO ANNE B. BARNHART, COMMISSIONER  
OF SOCIAL SECURITY; SOCIAL SECURITY  
ADMINISTRATION,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Middle District of Louisiana  
USDC No. 3:03-CV-485-M1  
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Before DAVIS, SMITH and DENNIS, Circuit Judges.

PER CURIAM:\*

Kelvin Paul Wells appeals the district court's judgment granting the Commissioner of Social Security's (the Commissioner's) motion to remand his petition for review of the Commissioner's denial of disability and supplemental security income benefits. The Commissioner moved the district court to reverse the agency decision and to remand the matter for further

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

administrative proceedings to obtain further findings concerning Wells' alleged mental impairment.

Wells argues that the evidence is sufficient to support the immediate award of benefits and that the Commissioner should be sanctioned for engaging in abusive litigation practices and violating his right to equal protection and due process.

The record does not reflect any basis for imposing sanctions against the Commissioner. The administrative law judge (ALJ) failed to make findings with respect to Wells' mental impairment as required by 20 C.F.R. § 404.1520a. 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) (internal quotations and citation omitted).

Therefore, the judgment of the district court is AFFIRMED.