

October 30, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-50430
Summary Calendar

THOMAS NUNEZ, JR.

Plaintiff - Appellant,

v.

JO ANNE B. BARNHART, COMMISSIONER OF SOCIAL SECURITY

Defendant - Appellee.

Appeal from the United States District Court
for the Western District of Texas, Austin Division
USDC No. 1:04-CV-712

Before DeMOSS, STEWART and PRADO, Circuit Judges.

PER CURIAM:*

Thomas Nunez, Jr. ("Nunez") filed a claim under the Social Security Act for Supplemental Security Income ("SSI"). After two evidentiary hearings, the Administrative Law Judge ("ALJ") denied Nunez's claim and the Appeals Council affirmed. Treating the decision of the Appeals Council as the final decision of the Commissioner of Social Security, Nunez filed suit in the district court for the Western District of Texas seeking judicial review of the Commissioner's decision. The case was referred to a

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Magistrate Judge who reviewed the record and briefs submitted by both parties. The district court entered final judgment affirming the Commissioner's decision to deny Nunez benefits. Nunez appeals to this Court.

Our review is limited to determining (1) whether there is substantial evidence in the record as a whole to support the Commissioner's decision, and (2) whether the Commissioner's decision comports with relevant legal standards. *Jones v. Apfel*, 174 F.3d 692, 693 (5th Cir. 1999). We have carefully reviewed the briefs, the record excerpts, and relevant portions of the record itself. For the reasons stated in the Magistrate Judge's Memorandum Opinion and Order, we find that the Commissioner's decision is supported by substantial evidence and is based on a proper application of the law. We affirm the decision of the district court to enter final judgment against Nunez.

AFFIRMED.