

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

February 11, 2008

Charles R. Fulbruge III
Clerk

No. 07-50809
Summary Calendar

LEROY JACKSON,

Plaintiff-Appellant

v.

MICHAEL J. ASTRUE, COMMISSIONER
OF SOCIAL SECURITY,

Defendant-Appellee

Appeal from the United States District Court
for the Western District of Texas
USDC 1:06-CV-743

Before WIENER, GARZA, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Plaintiff-Appellant Leroy Jackson is before us on appeal, the sixth step on his climb up the administrative and judicial ladder in search of Social Security benefits, which has now been rejected by the Commissioner, the Administrative Law Judge, the Appeals Council, a magistrate judge, a district judge, and — now — this court. We affirm.

Jackson, a high school graduate approximately 57 years old and 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

smoker, has no history of working at all, even though he has been determined to be capable of moderate lifting, standing, and relatively mild exertional functions, despite lower back pain and shortness of breath. Supported by more than substantial evidence and by clearly defensible credibility calls, the ALJ and the magistrate judge have — on the basis of the record on appeal which we have carefully reviewed — made totally defensible, correct, and non-reversible determinations that Jackson is not entitled to the benefits he seeks. Indeed, among the innumerable appeals from denials of Social Security benefits that the judges of this panel have seen in their combined decades of service on the federal courts, few if any have been as wholly lacking in merit as this one: If it is not frivolous, it certainly bumps up against the boundary of that category. Jackson may not be aware of this, but his counsel certainly must be; and she is counseled accordingly.

For the reasons given by the Administrative Law Judge and the magistrate judge in rejecting Jackson's claims, the judgment of the district court is, in all respects,

AFFIRMED.