

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 94-41354  
Summary Calendar

---

TURNER MYER, III,

Plaintiff-Appellant,

versus

DONNA SHALALA, Secretary of  
Health and Human Resources,

Defendant-Appellee.

---

Appeal from the United States District Court  
For the Eastern District of Texas  
(1:94-CV-567)

---

(May 17, 1995)

Before POLITZ, Chief Judge, JOLLY and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Because of his failure to satisfy an extant sanction order, the district court dismissed the *pro se, in forma pauperis* social security complaint of Turner Myer, III. Concluding that the prior sanction order does not apply to the instant action, we vacate and remand.

---

\*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the court has determined that this opinion should not be published.

The instant complaint against the Secretary of Health and Human Services under 42 U.S.C. § 405(g) challenges the disability determination of an administrative law judge. The complaint was dismissed without prejudice because of an outstanding sanction order issued by the district court for the Southern District of Texas in the case of **Myer v. Nurse Davis, et al.**, number H-91-3670 on the docket of that court. The court *a` quo* invoked its General Order 94-6 which requires the enforcement of sanctions imposed against litigious parties by other federal district courts in Texas.

The standard of review we apply on this appeal is abuse of discretion.<sup>1</sup> Today's resolution necessarily turns on the express language of the order entered by the Southern District which sanctioned Myer for filing a duplicative and meritless civil rights action. That order fined Myer \$25 and directed the clerk to decline to accept for filing any civil rights complaint Myer sought to file *in forma pauperis* until the \$25 sanction was paid.

The instant social security pleading filed under 42 U.S.C. § 405(g) is not a civil rights complaint and, therefore, does not come within the proscription of the sanction order issued by the Southern District. Accordingly, the dismissal based on that order was inappropriate and must be vacated.

The judgment appealed is VACATED and the matter is REMANDED for further proceedings.

---

<sup>1</sup>**Gelabert v. Lynaugh**, 894 F.2d 746 (5th Cir. 1990).