

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-50200
Summary Calendar

JACK HARRISON,

Plaintiff-Appellant,

versus

DONNA SHALALA, Secretary of Health & Human Services,

Defendant-Appellee.

Appeal from the United States District Court
from the Northern District of Texas
(A-93-CA-304)

(January 13, 1995)

Before JONES, BARKSDALE and BENAVIDES, Circuit Judges.

PER CURIAM:*

Appellant Harrison was working as a security guard for the Stanley Smith Company at the Texas Employment Agency when, in September 1989, he began to suffer back pain. Over the course of the next year, he was under constant medical care for what turned out to be a mild herniated disc in the lower back, which caused him pain. In October, 1990, Harrison applied for social security disability benefits. Having been rebuffed by the Social Security

* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Administration, the magistrate judge and the district court, he seeks review in this court. We affirm.

On appeal, he raises four issues. In his first and fourth issues, he asserts that the ALJ and the district court did not properly evaluate the evidence, specifically Dr. White's reference to "chronic pain syndrome" and the opinions and conclusions of treating examining physicians. We disagree. To the extent that chronic pain syndrome is offered here as a separate medical condition, it has a psychological component that was never addressed in the diagnosis of any doctors. Because that problem was not squarely raised in the administrative process, this court cannot consider it. Alternatively, as the district court found, there was substantial evidence in the record to support the ALJ's conclusion that objective medical findings did not support the complaints of severe pain related by appellant. Drs. White, Moore, and Zamora all released him to return to work as a security guard, a job that constitutes light work. The ALJ also properly noted that Harrison could likely perform the job duties of a security guard, inasmuch as he could stand or sit or walk as needed in order to relieve his pain. The ALJ, in short, was entitled to make the evidentiary finding that Harrison's complaints of pain were less probative than the objective medical evidence and nature of his job duties.

White next asserts that the Secretary should have found appellant disabled for at least one year. Although two of the releases to return to work occurred about one year after the back

incident, one doctor had released him as early as May, 1990. From this fact and the evidence related above, the ALJ was within his discretion to deny benefits for a one-year period.

As he did in the district court, Harrison complains that the Secretary should have furnished testimony of a vocational expert. This was not necessary, however, because the ALJ concluded that Harrison could return to his previous light duty employment.

For these reasons, the judgment of the district court is **AFFIRMED.**