

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-60278
Summary Calendar

FRED J. MAGEE,

Plaintiff-Appellant,

versus

JOHN J. CALLAHAN,
Commissioner of Social Security,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 2:96cv195PG
- - - - -

October 7, 1997

Before DUHÉ, DeMOSS, and DENNIS, Circuit Judges.

PER CURIAM:¹

Fred J. Magee appeals the district court's judgment for the Commissioner in his action pursuant to 42 U.S.C. § 405(g) for review of the decision of the administrative law judge ("ALJ") denying him disability and disability insurance benefits and Supplemental Security Income.

Magee contends that the district court erred in denying his motion to remand the case to the Commissioner for consideration of

¹ 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

"new" evidence. Although the evidence submitted by Magee is "new," it is not "material" in that it does not relate to the time period for which he is seeking benefits. See Ripley v. Chater, 67 F.3d 552, 555 & n.14 (5th Cir. 1995). Magee also contends that the ALJ erred in rejecting his subjective complaints of disabling pain. The ALJ's assessment of those complaints, however, was supported by substantial evidence. See Anthony v. Sullivan, 954 F.2d 289, 292 (5th Cir. 1992); Ripley, 67 F.3d at 556. The record lacks clinical and laboratory findings that support Magee's assertions that his pain is in fact disabling. See Selders v. Sullivan, 914 F.2d 614, 618-19 (5th Cir. 1990).

AFFIRMED.