

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-60168
Summary Calendar

LAVELL POWE, JR.,

Plaintiff-Appellant,

versus

KENNETH S. APFEL, Commissioner
of Social Security,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 4:97-CV-4-LS
- - - - -

January 27, 1999

Before GARWOOD, JOLLY, and BARKSDALE, Circuit Judges.

PER CURIAM:*

Lavell Powe, Jr. appeals the district court's affirmance of the Commissioner's denial of his application for disability insurance benefits and supplemental security income disability benefits. He argues that the administrative law judge (ALJ): (1) violated the rule announced in Lovelace**; (2) failed to advise him of his right to counsel and failed to provide him with a fair

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

** Lovelace v. Bowen, 813 F.2d 55 (5th Cir. 1987).

hearing; (3) erroneously found that Powe was able to perform past relevant work and failed to allow the testimony of a vocational expert; (4) erroneously found that Powe was not a credible witness; (5) applied the wrong legal standard and issued a decision that was against the overwhelming weight of the evidence.

To the extent that we have jurisdiction over the claims raised on appeal, see Paul v. Shalala, 29 F.3d 208, 210-211 (5th Cir. 1994)(failure to raise an issue before the Appeals Council deprives this court of jurisdiction over it on appeal absent a showing of a miscarriage of justice), we AFFIRM for the same reasons adopted by the district court. See Powe v. Callahan, 4:97-CV-4, (S.D. Miss. Feb 23, 1998).

AFFIRMED.