

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-40428
Summary Calendar

RICHARD A. CHISM,

Plaintiff-Appellant,

versus

KENNETH S. APFEL, COMMISSIONER OF SOCIAL SECURITY,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 3:98-CV-13
- - - - -
January 26, 2000

Before SMITH, BARKSDALE, and PARKER, Circuit Judges.

PER CURIAM:*

Richard A. Chism appeals the district court's judgment affirming the decision of the Commissioner of Social Security denying his claim for disability insurance benefits. He argues that the Commissioner erred by failing to consider new evidence from the Department of Veteran's Affairs (VA), including a decision which gave him a 100 percent disabled rating based on a diagnosis of major depression and headaches and post-traumatic stress disorder (PTSD). He also contends that if this new evidence is considered, the Commissioner's decision is not

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

supported by substantial evidence.

Chism last met the insured status requirements for social security disability benefits on December 31, 1988. The VA rating decision found that Chism was totally disabled as of September 26, 1992. There is no retrospective diagnosis of Chism's condition at the time of his insured status, and he has not pointed to any corroborative lay testimony regarding his disability at that time. Cf. Likes v. Callahan, 112 F.3d 189 (5th Cir. 1997). Therefore, Chism has not met the standard for remanding this action for consideration of new evidence. See Ripley v. Chater, 67 F.3d 552, 555 (5th Cir. 1995).

Because Chism does not argue that the Commissioner's decision is not supported by substantial evidence if the new evidence is not considered, we pretermitt discussion of this issue.

AFFIRMED.