

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 01-30255

Summary Calendar

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MOSE ALLEN, JR.,

Plaintiff-Appellant,

versus

LARRY G. MASSANARI,  
Acting Commissioner of Social Security,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Western District of Louisiana  
(99-CV-1714)

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September 24, 2001

Before HIGGINBOTHAM, WIENER, and BARKSDALE, Circuit Judges.

PER CURIAM:\*

Allen appeals the district court's reversal of the Commissioner of Social Security's determination that he had no disability, arguing that the district court abused its discretion by remanding the matter instead of immediately awarding benefits.

The district court cannot award benefits because the Commissioner has not yet made a valid determination in the first

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

instance. The district court cannot substitute its judgment for that of the Commissioner.<sup>1</sup> Thus the district court's decision to remand the case to the Commissioner is AFFIRMED.

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<sup>1</sup> *Motor Vehicle Mfrs. Ass'n v. State Farm Mutual Ins. Co.*, 463 U.S. 29, 43 (1983).