

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-1709

KIMBERLY RENE BAKER,

Plaintiff - Appellant,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant - Appellee.

Appeal from the United States District Court for the Western District of Virginia, at Abingdon. James P. Jones, District Judge. (1:11-cv-00040-JPJ-PMS)

Submitted: April 30, 2013

Decided: May 6, 2013

Before MOTZ and SHEDD, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Wolodymyr Cybriwsky, Prestonsburg, Kentucky, for Appellant. Eric P. Kressman, Regional Chief Counsel, Victor Pane, Supervisory Attorney, M. Jared Littman, Special Assistant United States Attorney, SOCIAL SECURITY ADMINISTRATION, Philadelphia, Pennsylvania; Timothy J. Heaphy, United States Attorney, Rick Mountcastle, Assistant United States Attorney, Roanoke, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kimberly Rene Baker appeals the district court's orders: granting summary judgment to the Commissioner and upholding the decision of the Commissioner denying Baker's application for disability insurance benefits and supplemental security income; and denying her motion for reconsideration. We have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. Baker v. Social Sec. Comm'r, No. 1:11-cv-00040-JPJ-PMS (W.D. Va. Feb. 16, 2012; Apr. 2, 2012).^{*} We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

^{*} We reject Baker's claim that she is entitled to a sentence six remand on the basis of a subsequent administrative decision awarding benefits. See 42 U.S.C. § 405(g) (2006). The subsequent decision pertains to an application for benefits filed by Baker after the date of the unfavorable decision that is the subject of this appeal. "[A] subsequent favorable decision itself, as opposed to the evidence supporting the subsequent decision, does not constitute new and material evidence under § 405(g)." Allen v. Commissioner, 561 F.3d 646, 653 (6th Cir. 2009). Baker has not met her burden of showing that evidence relied upon in reaching the favorable decision pertains to the period under consideration in this appeal. We conclude that the evidence is not material to the earlier, unfavorable decision.