

United States Court of Appeals
Fifth Circuit

FILED

March 28, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-30901
Summary Calendar

WANDA TURNBOW,

Plaintiff-Appellant,

v.

SOCIAL SECURITY ADMINISTRATION

Defendant-Appellee.

Appeal from the United States District Court
for the Western District of Louisiana
(3:04-CV-01377-RGJ-JDK)

Before KING, WIENER, and DeMOSS, Circuit Judges.

PER CURIAM: *

Appellant Wanda Turnbow appeals the district court's adoption of the magistrate judge's report and recommendation that the judgment of the Social Security Administration ("SSA") denying her application for disability benefits be affirmed. Turnbow's primary argument on appeal is that the SSA Appeals Council and the magistrate judge erred in not considering the new evidence that she presented to the Appeals Council after the administrative law judge

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

rendered her opinion. Turnbow's argument is without merit: Under Higginbotham v. Barnhart, a district court should review additional information that a petitioner submits to the Appeals Council after the ALJ has reached a decision.¹ Under Falco v. Shalala, however, this rule applies only if the new information relates to the time period for which the benefits were sought.² Thus, the Appeals Council and the district court are under no obligation to review information submitted for the first time to the Appeals Council when, as here, it relates only to the subsequent deterioration of a previously non-disabling condition.

The remainder of Turnbow's arguments on appeal are without merit; and, after reviewing the record, we affirm for the reasons given by the magistrate judge.

AFFIRMED.

¹405 F.3d 332 (5th Cir. 2005).

²27 F.3d 160, 164 (5th Cir. 1994).