

NOTE: This order is nonprecedential.

**United States Court of Appeals  
for the Federal Circuit**

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**BOBBY J. STEWARD,**  
*Plaintiff-Appellant,*

v.

**MICHAEL J. ASTRUE, COMMISSIONER, SOCIAL  
SECURITY ADMINISTRATION,**  
*Defendant-Appellee.*

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2012-1477

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Appeal from the United States District Court for the  
Southern District of Indiana in case no. 11-CV-350, Judge  
William T. Lawrence.

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**ON MOTION**

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Before **RADER**, *Circuit Judge*, **LOURIE**, and **SCHALL**, *Circuit  
Judges.*

PER CURIAM.

**ORDER**

The Commissioner of the Social Security Administration moves to dismiss this appeal for lack of jurisdiction or, in the alternative, to transfer the appeal to the United

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States Court of Appeals for the Seventh Circuit. Bobby J. Seward responds.

Steward is appealing from a decision of the United States District Court for the Southern District of Indiana in a social security retirement benefits case. This appeal is outside of this court's limited jurisdiction. 28 U.S.C. § 1295.

Pursuant to 28 § U.S.C. § 1631, this court is authorized to transfer a case to a court in which the appeal could have been brought at the time it was filed or noticed, here the United States Court of Appeals for the Seventh Circuit. While Steward initially stated that he did not intend to appeal to the Seventh Circuit, he has since made it clear that he wishes to pursue his appellate rights in the court of proper jurisdiction. The Seventh Circuit would have jurisdiction over this appeal pursuant to 42 U.S.C. § 405(g) (stating that the "judgment of the [district] court shall be final except that it shall be subject to review in the same manner as a judgment in other civil actions"). *See also Forney v. Afel*, 524 U.S. 266, 269 (1998) (explaining that an appeal from a district court decision involving social security benefits falls within the jurisdictional grant of 28 U.S.C. § 1291).

Accordingly,

IT IS ORDERED THAT:

The appeal is transferred pursuant to 28 U.S.C. § 1631 to the United States Court of Appeals for the Seventh Circuit.

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FOR THE COURT

/s/ Jan Horbaly  
Jan Horbaly  
Clerk

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Issued As A Mandate: NOV 27 2012