

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

MAY 14 1998

PATRICK FISHER
Clerk

MARGARET STERR,

Plaintiff-Appellant,

v.

KENNETH S. APFEL, Commissioner
of Social Security Administration,*

Defendant-Appellee.

No. 97-7136
(D.C. No. 96-CV-459-BU)
(E.D. Okla.)

ORDER AND JUDGMENT**

Before **BALDOCK**, **EBEL**, and **MURPHY**, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously to grant the parties' request for a decision on the briefs without oral

* Pursuant to Fed. R. App. P. 43(c), Kenneth S. Apfel is substituted for John J. Callahan, former Acting Commissioner of Social Security, as the defendant in this action.

** This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

argument. See Fed. R. App. P. 34(f); 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument.

Claimant Margaret Sterr appeals from the district court's order affirming the decision of the Commissioner of Social Security denying her application for disability benefits. Agency regulations establish a five-step sequential analysis to evaluate disability claims. See Williams v. Bowen, 844 F.2d 748, 750-52 (10th Cir. 1988) (describing five steps in detail). Here, the administrative law judge (ALJ) reached step four, determining that, during her period of eligibility for disability benefits, claimant could have returned to her past relevant work.

Claimant filed suit in district court and the district court, adopting the magistrate judge's findings and recommendations, affirmed the agency's denial of benefits. Our jurisdiction over this appeal arises from 28 U.S.C. § 1291. Our review of the agency's decision is limited to determining whether the decision is supported by substantial evidence in the record as a whole and whether the correct legal standards were applied. See Castellano v. Secretary of Health & Human Servs., 26 F.3d 1027, 1028 (10th Cir. 1994).

On appeal, claimant contends that 1) the ALJ failed to properly develop the record with regard to functional limitations resulting from removal of her bladder in 1985 due to cancer, and 2) therefore failed to make the proper findings regarding the requirements of claimant's past relevant work.

After careful review of the record on appeal and after consideration of the parties' briefs in light of the standards set out above, we conclude that substantial evidence supports the agency's decision and that the ALJ applied the correct legal standards. Further, the district court correctly decided this case. Therefore, for substantially the same reasons set forth in the magistrate judge's findings and recommendations, dated June 9, 1997, the judgment of the United States District Court for the Eastern District of Oklahoma is AFFIRMED.

Entered for the Court

Michael R. Murphy
Circuit Judge