

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

JUL 31 1991

ROBERT L. HOECKER
Clerk

LESTER A. GUNTER,
Plaintiff-Appellant,
v.
SECRETARY OF HEALTH & HUMAN
SERVICES,
Defendant-Appellee.

No. 91-2063
(D.C. No. 90-CV-176-JP)
(D. New Mexico)

ORDER AND JUDGMENT*

Before LOGAN, MOORE, and BALDOCK, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously to honor the parties' request for a decision on the briefs without oral argument. See Fed. R. App. P. 34(f); 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument.

Plaintiff Lester A. Gunter appeals the decision of the Secretary of Health and Human Services denying him disability insurance benefits under the Social Security Act. He seeks a remand to the Secretary for rehearing.

* This order and judgment has no precedential value and shall not be cited, or used by any court within the Tenth Circuit, except for purposes of establishing the doctrines of the law of the case, res judicata, or collateral estoppel. 10th Cir. R. 36.3.

Plaintiff did not offer new evidence in support of his motion to remand. Rather, he asserted that the administrative law judge did not properly evaluate the evidence he had presented, and should have referred him for an examination by a psychologist even though he had previously refused to get psychological counseling. Plaintiff asserts that his impairment of his right arm and shoulder arising from an accident, his history of alcohol and drug abuse, and his mental problems justify the remand. The district court has analyzed the evidence and the propositions of law involved in plaintiff's argument in some detail. We AFFIRM for substantially the reasons stated in the district court's memorandum opinion and order entered February 26, 1991.

The mandate shall issue forthwith.

Entered for the Court

James K. Logan
Circuit Judge