

328 F.2d 311

United States Court of Appeals Fifth Circuit.

Will WITHERSPOON, Appellant,

v.

Anthony J. CELEBREZZE, Secretary of
Health, Education and Welfare, Appellee.

No. 20883. | Feb. 17, 1964.

Proceeding for review of a denial of social security disability benefits. The United States District Court for the Northern District of Alabama, Clarence W. Allgood, J., entered judgment affirming denial of benefits, and claimant appealed. The Court of Appeals held that substantial evidence sustained secretary's determination that claimant, who was able to perform certain manual labor, was not entitled to disability benefits, even though he was unable to carry on his former work as a coal miner.

Judgment affirmed.

West Headnotes (2)

[1] **Social Security and Public Welfare**

 **Inability to Perform Customary Work**

Mere showing of inability to do former work will not entitle a claimant to social security disability benefits unless that work was the only work claimant could perform.

[3 Cases that cite this headnote](#)

[2] **Social Security and Public Welfare**

 **Ability to Engage in Substantial Gainful Activity in General, Sufficiency**

Substantial evidence sustained secretary's determination that claimant, who was able to

perform certain manual labor, was not entitled to disability benefits, even though he was unable to carry on his former work as a coal miner.

[3 Cases that cite this headnote](#)

Attorneys and Law Firms

*312 George C. Longshore, Birmingham, Ala., for appellant.

Sherman L. Cohn, Patrick C. McKeever, Attys., Dept. of Justice, Washington, D.C., John W. Douglas, Asst. Atty. Gen., Macon L. Weaver, U.S. Atty., for appellee.

Before CAMERON, WISDOM and GEWIN, Circuit Judges.

Opinion

PER CURIAM.

[1] [2] In this action the claimant appeals from a judgment of the district court affirming the Secretary's decision denying the claimant's application for disability benefits. As this Court has repeatedly held, a mere showing of inability to do his former work will not entitle a claimant to disability benefits, unless that work was the only work he could perform. [Hicks v. Flemming](#), 5 Cir. 1962, 302 F.2d 470; [Celebrezze v. O'Brien](#), 5 Cir. 1963, 323 F.2d 989. It is clear from the record that the claimant has failed to show that the work of a coal miner is the only work which he can perform, especially in light of the fact that there is medical evidence that at least at the time of his application he had a residual capacity to perform even manual labor not requiring crawling. Moreover, since the evidence shows that the claimant, at least on the critical date, could still perform even hard manual labor, it cannot be reasonably said that he is disabled. The Secretary's determination is supported by substantial evidence and the district court was correct in upholding his decision.

The judgment is affirmed.

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