

No. _____

IN THE
Supreme Court of the United States

RACHEL GOODE,

Petitioner,

v.

COMMISSIONER OF SOCIAL SECURITY

Respondent.

On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Eleventh Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

If the Commissioner of Social Security denies an application for disability benefits, and the claimant has exhausted her administrative remedies, the claimant can appeal to a district court. The Social Security Act provides that the court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing. The findings of the Commissioner of Social Security as to any fact, if supported by substantial evidence, shall be conclusive.

Often the court does not disturb the residual functional capacity findings in the Administrative Law Judge decision, but remands the case to correct errors pertaining to evaluation of vocational testimony or for another reason which does not involve a claimant's residual functional capacity.

The question presented is:

Where a District Court remands a decision of the

Social Security Administration, to address a specific error, not related to the residual functional capacity findings in the ALJ decision, does the order constitute a complete vacatur of the Commissioner's decision, rendering the first decision, null and void, with no legal effect whatsoever, giving the Commissioner the discretion to make new factual findings as to the claimant's residual functional capacity, even though neither the Commissioner nor the claimant objected to those findings to the Appeals Council nor the District Court, or, are the issues in the remanded decision, limited to the basis for the remand. In other words, do the doctrines of the Law of the Case and/or Rule of Mandate apply in Social Security disability appeals?

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U.S. District Court for the Middle District of Florida:

Goode v. Commissioner, No: 8:23-cv-404-AEP (M.D. FL. March 04, 2024) (unpublished)

U.S. Court of Appeals for the Eleventh Circuit:

Goode v. Commissioner, 966 F. 3d 1277 (11th Cir 2020)

(published)

U.S. District Court for the Middle District of Florida:

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U.S. District Court for the Middle District of Florida:

Goode v. Commissioner, No: 8:20-cv-2869-JSS (M.D.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner, Rachel Goode, respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit in this case.

OPINIONS BELOW

The Eleventh Circuit's decision is unpublished (Pet. App. 1a-6a). The district court's decision (Pet. App. 7a-18a,) is unpublished.

JURISDICTION

The Eleventh Circuit issued its opinion on June 2, 2025. This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

Sentence four of 42 U.S.C. § 405(g), provides that: The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing

STATEMENT OF THE CASE

In the first Administrative Law Judge decision, the Appellant was found, among other things, limited to occasional reaching in all directions with the upper right extremity (Pet.Appx.140a) The District Court remanded the decision to re-evaluate whether the Petitioner had a severe mental impairment. (Pet. Appx. 117a-128a)

In the second ALJ decision, it was found that petitioner was limited to occasionally reaching overhead with the right upper extremity. The decision changed the limitation from “in all directions” to only overhead. (Pet. Appx. 103a-104a)

The Petitioner appealed the decision to the District Court, which affirmed the ALJ decision. (Pet. Appx. 74a-83a) The Petitioner appealed the decision to the 11th Circuit Court of Appeals and the 11th Circuit remanded the case for a new decision. The basis for the remand pertained to evaluation of vocational expert evidence and was unrelated to the residual functional capacity findings. (Pet. Appx. 51a-73a)

In the third ALJ decision it was found that petitioner was limited to frequent reaching overhead with the right upper extremity. The decision changed the limitation from occasional overhead reaching to frequent overhead reaching. (Pet. Appx. 34a)

There was no explanation for the change in the residual functional capacity findings. In the second ALJ decision, the ALJ did not state there was new evidence that supported a change in the residual functional capacity findings from the first decision. (Pet. App. 93a-116a) In the third ALJ decision, the ALJ did not state there was new evidence that supported a change in the residual functional capacity findings from the second decision. (Pet. Appx. 26a-48a)

The Petitioner appealed the decision again to the District Court. While the Appeal was pending the 11th Circuit issued a decision in the case of *Weidner v. Commissioner* 81 F. 4th 1341 (11th Cir. 2023) (Published)

The Eleventh Circuit held, the prior decision had been vacated and for these doctrines to apply, the

earlier decision must still be extant, and because vacated decisions are officially gone, they have no legal effect whatever.

The District Court found that the issue in this case was virtually identical to the facts in *Weidner* and the Eleventh Circuit's ruling was binding and dispositive. It therefore, affirmed the Appellee's decision. (Pet. Appx. 7a-18a)

The Petitioner appealed the District Court's decision to the Eleventh Circuit, urging the Court to revisit its prior decision in *Weidner*. The Eleventh Circuit summarily affirmed the District Court's decision finding that *Weidner* forecloses the sole issue on appeal. (Pet. Appx. 1a-6a)

This petition followed.

REASONS FOR GRANTING THE WRIT

I. The Circuits Are In Open Conflict Over The Question Presented.

The question presented arises frequently because the fact pattern in this case is commonplace. When an ALJ makes residual functional capacity findings, and

determines that based on these findings the claimant cannot do past relevant work, a vocational witness is typically used to determine if there are jobs which exist in significant numbers in the national economy which the claimant can perform. In many cases, a Court finds the vocational testimony is flawed and remands the matter for further vocational witness testimony.

In a number of instances, the ALJ, without citing new evidence or explaining the basis for doing so, changes the residual functional capacity findings, and issues an unfavorable decision.

Often, claimants posit that the Law of the Case and Rule of Mandate principles, precluded reconsideration of factual findings in the prior decision, which were not at issue in the appeal, absent new and material evidence to support a change in the factual findings. In fact, there is one case recently decided by the 11th Circuit, in which a Petition for Writ of Certiorari is currently pending before this court. *Heffner v. Commissioner*, 2025 WL 945871, (11th Cir. March 28, 2025) (unpublished)

The Eleventh Circuit has previously addressed this

issue in *Weidner v. Commissioner* 81 F. 4th 1341 (11th Cir. 2023) (Published), as well as in several unpublished cases, *Mendez v. Comm'r of Soc. Sec.*, No. 20-14026, 2021 WL 3163765, at *3 (11th Cir. 2021), *Zuniga v. Comm'r of Soc. Sec.*, 772 F. App'x 870, 871 (11th Cir. 2019); *Alicea v. Comm'r of Soc. Sec.*, 855 F.App'x 494, 496 (11th Cir. 2021), where it was held that because the Commissioner's vacatur of the ALJ's earlier opinion wiped away the ALJ's prior factual findings, the ALJ was not bound by his previous RFC finding.

Decisions in the 9th Circuit are in direct conflict with the holdings in the 11th Circuit on this issue.

In *Stacy v. Colvin*, 825 F.3d 563 (9th Circuit, 2016), the court held that both the law of the case doctrine and the rule of mandate apply in the Social Security context. The law of the case doctrine generally prohibits a court from considering an issue that has already been decided by the same court or a higher court in the same case. The Ninth Circuit cautioned that the doctrine should not be applied when the evidence on remand is substantially different, when the controlling law has changed, or when

applying the doctrine would be unjust.

In *Ramirez v. O'Malley*, 2024 WL 4763686 (9th Cir. 2024) (unpublished) Ramirez argued that, in light of the district court's 2021 remand order, the law of the case doctrine and the rule of mandate prohibited the Administrative Law Judge ("ALJ") from finding that her residual functional capacity ("RFC") was less limited than previously found. In particular, Ramirez contended that, on remand from the district court, the ALJ could not increase her RFC from "sedentary work" to "light work."

The Ninth Circuit concluded that the ALJ's finding on remand that Ramirez's RFC was less limited than previously decided violated the rule of mandate. "The rule of mandate 'provides that any '[lower] court that has received the mandate of an appellate court cannot vary or examine that mandate for any purpose other than executing it. ' " *Id.* (citation omitted).

In *D'Ambrosio v. Commissioner of Social Security*,

2024 WL 3164535 (E.D. CA 2024), the Defendant argued the Court did not limit the ALJ to the previous RFC, but “gave the Commissioner an opportunity to correct the step 5 error.” The Defendant asserted “[u]pon remand, an ALJ is free to reevaluate the facts in evidence absent any restrictions by the Appeals Council in its remand order”, citing *Houston v. Sullivan*, 895 F.2d 11012, 1015 (5th Cir. 1989), and if the Court had meant to limit the ALJ to the previous RFC, it “would have explicitly said so.” The Court found that the Defendant's arguments were unpersuasive. “[T]he rule of mandate encompasses issues both expressly and impliedly resolved on appeal.”

Gilreath v. Berryhill, No. EDCV 16-02037-JEM, 2017 WL 4564707, at *6 (C.D. Cal. Oct. 10, 2017). As one court explained: “Th[is] point is particularly important in Social Security appeals because a district court is never called upon to address issues resolved in the claimant's favor; the claimant obviously cannot challenge such determinations, and the Commissioner cannot challenge them because they were made by him (or his delegate) in

the first place ... [I]t follows from this procedural anomaly that when a district court passes judgment on, for example, an ALJ's step-five determination, it has implicitly affirmed the determinations at all prior steps."

In Hollins v. Massanari, 49 Fed. Appx. 533, 535–36 (6th Cir. 2002), the sixth Circuit held that while the Administrative Law Judge may not do anything expressly or impliedly in contradiction to the district court's remand order, this does not preclude the ALJ from acting in ways that go beyond, but are not inconsistent with, the district court's opinion, and reconsideration of Hollins's physical impairments was not inconsistent with any express or implied order of the district court. However, the dissenting opinion was that the remand order rendered the unchallenged RFC determination final, notwithstanding the fact that the order did not expressly verbalize that conclusion.

In *Sullivan v. Hudson*, 490 U.S. 877 (1989), language in the decision suggested that the law of the case/rule of mandate applied in Social Security cases. "Where a court finds that the Secretary has committed a

legal or factual error in evaluating a particular claim, the district court's remand order will often include detailed instructions concerning the scope of the remand, the evidence to be adduced, and the legal or factual issues to be addressed. See, e.g., *Cooper v. Bowen*, 815 F.2d 557, 561 (C.A.9, 1987). Often, complex legal issues are involved, including classification of the claimant's alleged disability or his or her prior work experience within the Secretary's guidelines or "grids" used for determining claimant disability. See, e.g., *886 *Cole v. Secretary of Health and Human Services*, 820 F.2d 768, 772–773 (C.A.6, 1987). Deviation from the court's remand order in the subsequent administrative proceedings is itself legal error, subject to reversal on further judicial review. See, e.g., *Hooper v. Heckler*, 752 F.2d 83, 88 (C.A.4, 1985); *Mefford v. Gardner*, 383 F.2d 748, 758–759 (C.A.6, 1967)."

There are a number of district court cases which stand for the proposition that the remand instructions received by ALJs from district courts are the law of the

case. *Bradley v. Colvin*, 110 F. Supp.3d 429, 441 (E.D.N.Y. 2015) (citing *Gladle v. Astrue*, No. 12 CV 284, 2013 WL 4543147, at *3 (N.D.N.Y. Aug. 27, 2013); *Calderon v. Astrue*, 683 F. Supp. 2d 273, 276–77 (E.D.N.Y. 2010); see also *Ischay v. Barnhart*, 383 F. Supp. 2d 1199, 1217 (C.D. Cal. 2005) (citing *Holst v. Bowen*, 637 F. Supp. 145, 147 n. 3 (E.D. Wash. 1986); *Ozbun v. Callahan*, 968 F. Supp. 478, 480 (S.D. Iowa 1997); *Hillhouse v. Harris*, 547 F. Supp. 88, 92 (W.D. Ark. 1982). District courts have also applied the so-called “rule of mandate” in the Social Security context. e.g., *Ischay*, 383 F. Supp. 2d at 1214. The rule of mandate, which “presents a specific and more binding variant of the law of the case doctrine[.]” *Magnesystems, Inc. v. Nikken, Inc.*, 933 F. Supp. 944, 949 (C.D. Cal. 1996), “requires that, on remand, the lower court’s actions must be consistent with both the letter and the spirit of the higher court’s decision.” *Ischay*, 383 F. Supp. 2d at 1214 (citing *Quern v. Jordan*, 440 U.S. 332, 347 n. 18 (1979) (looking to whether post-mandate conduct of the lower court was consistent “with either the spirit or the

express terms of our decision”); emphasis in original).

The question presented is important to the orderly administration of the Social Security disability benefits system. Where there is a conflict of law between another circuit, and conflicting opinions in district courts, and a common factual scenario, the law should be clarified so that decisions are consistent.

II. The Eleventh Circuit's Decision Is Manifestly Wrong.

Certiorari is also warranted because the Eleventh Circuit reached the wrong result for the wrong reasons. In concluding that the Commissioner's vacatur of the ALJ's earlier opinion wiped away the ALJ's prior factual findings, and the ALJ was not bound by his previous RFC finding, the court disregarded the fact that the Commissioner did not appeal the ALJ's factual findings regarding the Appellant's residual functional capacity findings (RFC), at the District Court level. What if an Appellant argued at the District Court level that the RFC findings were not supported by the substantial evidence, and the court affirmed that part

of the decision, but remanded the case to correct the vocational witness analysis part of the case? Would the ALJ still be free to change the RFC findings or would the rule of mandate apply, because the court explicitly affirmed the ALJ's RFC findings. If the former, then the finding in *Weidner*, as well as the instant case, is also wrong. The remand does not wipe away the ALJ's prior factual findings.

The analysis of the Eleventh Circuit is manifestly unfair and a waste of judicial resources. If the decision of the Eleventh Circuit is not overturned, in the future, an Appellant, who appeals a decision based on an issue with vocational testimony, and is offered a remand by the Commissioner, to address the vocational testimony, will not accept this offer, but instead, ask the court to affirm all of the other findings in the ALJ decision, in addition to remanding the case to address the vocational issue. This will result in a waste of judicial resources, as neither party disputes the residual functional capacity findings in the ALJ decision.

And if the decision is truly vacated, could the

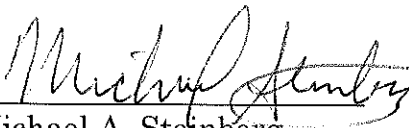
Commissioner issue an identical decision as it did in the first decision, ignoring the decision of the court? Could it change the RFC findings, even if the Court affirmed those findings?

If the answer is in the affirmative, the basis of the decision of the court remanding the case, or even the decision of the court itself, is of no consequence.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael A. Steinberg", is written over a horizontal line.

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