

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-30772
Summary Calendar

IVORY THOMAS,

Plaintiff-Appellant,

versus

JO ANNE B. BARNHART, COMMISSIONER OF
SOCIAL SECURITY,

Defendant-Appellee.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 00-CV-1885

January 28, 2002

Before DeMOSS, PARKER, and DENNIS, Circuit Judges.

PER CURIAM:*

Ivory Thomas appeals the district court's judgment reversing the decision of the Commissioner of Social Security and remanding his case to the Commissioner for further administrative proceedings. Thomas argues that the district court abused its discretion in remanding his case to the Commissioner for further proceedings without deciding the issue whether he waived his right to representation. He contends that the determination of this issue constitutes "law of the case" that should accompany the district court's order on remand. In any event, Thomas

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

asserts that his IQ score of 53 constitutes evidence of a *per se* severe impairment which entitles him to benefits as a matter of law, and that the district court therefore erred in remanding his case for additional proceedings.

We have reviewed the record and the briefs submitted by the parties and hold that the district court did not err in remanding Thomas' case for further administrative proceedings. See Melkonyan v. Sullivan, 501 U.S. 89, 97-99 (1991); Istre v. Apfel, 208 F.3d 517, 519 (5th Cir. 2000).

AFFIRMED.