

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

BOBBY J. STEWARD,
Plaintiff-Appellant,

v.

**MICHAEL J. ASTRUE, COMMISSIONER, SOCIAL
SECURITY ADMINISTRATION,**
Defendant-Appellee.

2012-1477

Appeal from the United States District Court for the
Southern District of Indiana in case no. 11-CV-350, Judge
William T. Lawrence.

ON MOTION

Before **RADER**, *Circuit Judge*, **LOURIE**, and **SCHALL**, *Circuit
Judges.*

PER CURIAM.

ORDER

The Commissioner of the Social Security Administration moves to dismiss this appeal for lack of jurisdiction or, in the alternative, to transfer the appeal to the United

BOBBY STEWARD v. ASTRUE

2

States Court of Appeals for the Seventh Circuit. Bobby J. Seward responds.

Steward is appealing from a decision of the United States District Court for the Southern District of Indiana in a social security retirement benefits case. This appeal is outside of this court's limited jurisdiction. 28 U.S.C. § 1295.

Pursuant to 28 § U.S.C. § 1631, this court is authorized to transfer a case to a court in which the appeal could have been brought at the time it was filed or noticed, here the United States Court of Appeals for the Seventh Circuit. While Steward initially stated that he did not intend to appeal to the Seventh Circuit, he has since made it clear that he wishes to pursue his appellate rights in the court of proper jurisdiction. The Seventh Circuit would have jurisdiction over this appeal pursuant to 42 U.S.C. § 405(g) (stating that the "judgment of the [district] court shall be final except that it shall be subject to review in the same manner as a judgment in other civil actions"). *See also Forney v. Afel*, 524 U.S. 266, 269 (1998) (explaining that an appeal from a district court decision involving social security benefits falls within the jurisdictional grant of 28 U.S.C. § 1291).

Accordingly,

IT IS ORDERED THAT:

The appeal is transferred pursuant to 28 U.S.C. § 1631 to the United States Court of Appeals for the Seventh Circuit.

3

BOBBY STEWARD v. ASTRUE

FOR THE COURT

/s/ Jan Horbaly
Jan Horbaly
Clerk

s25

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