

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

PAULETTE WEGNER,

Plaintiff,

ORDER

v.

02-C-0329-C

JO ANNE B. BARNHART, Commissioner
of Social Security,

Defendant.

This is an action for judicial review of an adverse decision of the commissioner brought pursuant to 42 U.S.C. § 405(g). The case is on appeal to the United States Court of Appeals for the Seventh Circuit. Paulette Wegner has filed in this court what I construe to be a motion to supplement the record on appeal pursuant to Rule 10(e) of the Federal Rules of Appellate Procedure. According to Wegner's submissions, she recently learned that her last insured date for disability insurance benefits is December 31, 2000, as opposed to December 31, 1998, as found by the administrative law judge who first denied her claim. Wegner seeks to add to the appellate record documents that clarify the date on which she was last insured for disability insurance benefits.

The motion will be denied. Rule 10(e) exists to allow a party to correct differences that might exist between the record that is forwarded to the court of appeals and the actual record in the district court. Wegner does not contend that the record as submitted to the court of appeals does not truly disclose what occurred in this court; rather, she contends that

the record before *this* court was incorrect because it contains references to a date last insured that she has now discovered to be incorrect. A motion to supplement the record on appeal is not the proper mechanism by which to correct this alleged error.

In any case, the date on which Wegner was last insured was not material to the commissioner's decision to deny Wegner's application for benefits or to this court's decision to affirm the commissioner. Because that date had no bearing on this court's decision, it will have no bearing on Wegner's pending appeal. Accordingly, I would decline to grant Wegner's motion even if Rule 10(e) was the proper vehicle by which to present it.

ORDER

The motion of Paulette Wegner to supplement the record on appeal is DENIED.

Entered this 23rd day of June, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge