

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

DIANE L. NELSON,

Plaintiff,

ORDER

v.

06-C-0249-C

JO ANNE BARNHART,
Commissioner of Social Security,

Defendant.

On November 22, 2006, District Judge Barbara Crabb issued an order rejecting plaintiff's challenges to my report and recommendation and adopting my judge's recommendation to affirm the decision of the commissioner. Judgment was entered in favor of the commissioner on November 27. That same day, the court received a letter from plaintiff dated November 19, 2006. In the letter, plaintiff requests permission to "make statements on [her] own behalf" and to "address all partys involved in Briefing schedule" without the advice of her attorney, Dana Duncan. In addition, she has provided MRI summary reports from May 2006 and the actual scans themselves that show that she has scoliosis in the thoracic spine and a herniated disc with spinal cord displacement in the cervical spine. These records are not part of the administrative record and have not been previously submitted to the court.

To the extent that plaintiff is seeking to make her own objections to the report and recommendation, it is too late. The court has already ruled on the objections and entered judgment.

The court could construe plaintiff's letter as a motion to vacate the judgment and reinstate the case under Rule 59(e) or 60(b) of the Federal Rules of Civil Procedure. Before doing that, however, I am requesting plaintiff to provide answers to the following questions:

1. Is plaintiff still being represented by attorney Duncan? If not, is it plaintiff's wish to represent herself in this action?
2. Is plaintiff asking this court to reconsider its decision to affirm the commissioner's determination that plaintiff is not disabled? If so, on what basis does plaintiff think she is entitled to reconsideration?

Plaintiff should be aware that no matter what answers she provides to these questions, she is not likely to convince this court to reopen the case. Plaintiff has been represented by counsel throughout this proceeding. Simply because plaintiff may not be happy with her lawyer's representation or thinks that she has better arguments to make does not entitle her to a "do-over." A litigant is bound by her lawyer's acts. *Link v. Wabash R.R.*, 370 U.S. 626, 633-34 (1962); *Tolliver v. Northrop Corp.*, 786 F.2d 316, 319 (7th Cir. 1986).

Plaintiff has until December 8, 2006, in which to submit a statement to the court

providing answers to the two questions set forth above. She should provide a copy of her submission to attorney Duncan and to attorney Humphrey.

Entered this 28th day of November, 2006.

BY THE COURT:

/s/

STEPHEN L. CROCKER

Magistrate Judge