



SOCIAL SECURITY

Office of the General Counsel

Office of General Law

NOV 9 2004

**BY CERTIFIED MAIL -
RETURN RECEIPT REQUESTED**

Dallas, TX 75206-2925

Re: Your Civil Rights Complaints, Docket No. HQ-04-07

Dear

We have completed our investigation into your allegations of discrimination by representatives of the Social Security Administration (SSA). This communication constitutes our determination concerning the seven complaints that you referred for our consideration on January 28, 29, 30, February 5, March 31, April 23, and May 11, 2004. We have analyzed each of your complaints below and have determined that SSA did not discriminate against you.

1. **Psychiatric Disability Case** -- You allege that the disability determination service (DDS) in the State of Texas, the Department of Assistive and Rehabilitative Services (DARS), discriminated against you and a class of "tens of thousands" of denied disability claimants from 1996 to 2003 on the bases of disability and national origin (U.S. Texan), by misdiagnosis of somatoform disorder. You also allege that SSA employees discriminated against you and a class of "tens of thousands" of denied disability claimants from 1996 to 2003 by a "de facto violation of national program standards." We do not have jurisdiction to consider the first part of your complaint because DARS employees are employed by the State of Texas and are not under our jurisdiction. Our civil rights procedures apply only to SSA employees. We do have jurisdiction and have examined your contention that unnamed SSA employees discriminated against you. However, we find that you have submitted no persuasive evidence that SSA discriminated against you or any putative class of disability claimants.
2. **Fake Examiner Case** -- You allege that DARS discriminated against you and a class of approximately 12,000 claimants on the bases of disability and "fraud," by allowing DARS disability examiners to sign off on adverse disability determinations using fake names from September 9, 2000, to September 9, 2001. You also allege that DARS discriminated against you because DARS was biased against claimants with chemical injury or mental impairments and that SSA has done nothing to prevent DARS from using "fake" examiners. See response to complaint No.1. We do

not have subject matter jurisdiction to consider allegations of discrimination based on fraud.

3. **State Agency Medical Consultant Piece Work Case** -- You allege that DARS discriminated against you and a class of approximately 50,000 – 100,000 claimants on the bases of disability, national origin, and the size of their case files, by employing high volume medical consultants and by failing to procure necessary medical records in claims involving chronic medical conditions, such as chemical injury or psychiatric disability, from 2001 to 2004. You also allege that SSA has done nothing to prevent DARS from using high volume consultants who were biased against disability claimants because they received “piece work” fees from DARS. See response to complaint No. 1. We do not have subject matter jurisdiction to consider allegations of discrimination based on claim file size.
4. **Texas Oil Industry Workers’/Oil Well Firefighters’ Case** -- You allege that DARS discriminated against you and a class of “tens of thousands” of oil industry workers, including workers who were involved in fighting the 1991-1992 Kuwait oil well fires, on the bases of disability, industry, treatment provider, and socio-economic background from 1996 to 2002, by a DARS practice of red-lining claims involving chemical sensitivity or chemical injury for denial. We do not have jurisdiction to consider your complaint because DARS employees are employed by the State of Texas and are not under our jurisdiction. Our civil rights procedures apply only to SSA employees. We also do not have subject matter jurisdiction to consider allegations of discrimination based on industry, treatment provider, or socio-economic background.
5. **Former U.S. Department of Energy (DOE) Workers’ Case** -- You allege that DOE, DARS, and SSA’s Office of Hearings and Appeals (OHA) discriminated against you and a class of approximately 600,000 former DOE employees on the bases of disability and various acts of governmental misconduct. You also allege that DOE “blacklisted” workers claiming chemical injury and that SSA discriminated against you because SSA adjudicators were unqualified to adjudicate claims involving exposure to exotic toxic chemicals. You also allege that OHA’s Appeals Council (AC) failed to “slap down” systematic bias against chemical injury claims. See response to complaint No. 1. We are dismissing the portion of this complaint relating to OHA’s AC for lack of subject matter jurisdiction because it is collateral to your claim for benefits. Disagreement with SSA determinations or decisions on an application for benefits is not alone a basis for a claim of disability or other discrimination.
6. **Vocational Evaluation Case** -- You allege that DARS discriminated against you and a class of “tens of thousands” of denied disability claimants from 1996 to 2002 on the bases of Texas residency, disability, and national origin by failing to provide a “vocational evaluation” and consider vocational factors in the determination of disability. You also allege that SSA Region VI ALJs, the AC and federal courts discriminated against you and a class of “tens of thousands” of denied disability claimants from 1996 to 2002 by failing to procure or order a “vocational evaluation” and consider vocational factors in the determination of disability. You also allege

that SSA has done nothing to prevent DARS from engaging in cost cutting short cuts that operate to the detriment of claimants whose disability claims require consideration of vocational factors. See response to complaint No. 1. DARS was not required to consider vocational factors in your case because DARS denied your disability claim at step two of the sequential evaluation process; the law only requires consideration of vocational factors for cases decided at steps four and five of the sequential evaluation process. 20 C.F.R. §§ 404.1560 and 416.960.

- 7. North Dallas OHA Administrative Law Judge (ALJ) Case -- You allege that OHA ALJ of the Dallas North Hearing Office discriminated against you on the bases of disability and national origin and denied your right to due process when he denied your claim for disability benefits on April 9, 2002. You also allege that ALJ discriminated against you by ignoring or mischaracterizing evidence of record and by improperly discrediting your treating physicians' opinions. We have reviewed the evidence you submitted to us. However, we are dismissing this complaint for lack of subject matter jurisdiction because it is collateral to your disability claim. Disagreement with SSA determinations or decisions on an application for benefits is not a sufficient basis to support a complaint of discrimination.**

Because it is my assessment that you have submitted no persuasive evidence that any SSA employee discriminated you, I find that there has been no discrimination with regard to the handling of your individual claim for benefits or in the process of oversight of DARS.

If you would like to file a discrimination complaint with DARS, you may address your correspondence to:

Pam Chisholm
Director, Division of Quality & Inquiry Services,
Department of Assistive & Rehabilitative Services,
Texas Disability Determination Service
P.O. Box 149148
Austin TX 78741

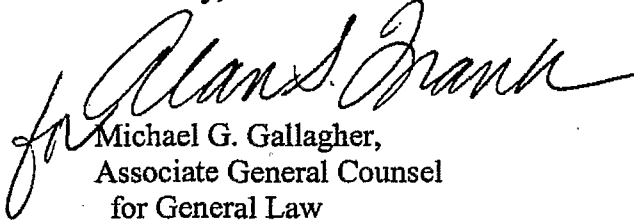
If you disagree with this determination, you may seek reconsideration from the Deputy General Counsel. A request for reconsideration must be received at the following address within 60 days from the date of this letter:

Office of the General Counsel
Office of General Law
Altmeyer Building, Room 617
6401 Security Boulevard
Baltimore, Maryland 21235

A request for reconsideration must contain a statement describing why you are seeking reconsideration and any new information, data or evidence pertinent to the allegations in your

complaint. I will forward your request for reconsideration, along with copies of your complaints of discrimination and this decision, to the Deputy General Counsel.

Sincerely,

A handwritten signature in cursive script, appearing to read "for Alan S. Frank".

Michael G. Gallagher,
Associate General Counsel
for General Law