

17-1184 BIESTEK V. BERRYHILL

DECISION BELOW: 880 F.3d 778

LOWER COURT CASE NUMBER: 17-1459

QUESTION PRESENTED:

When assessing an applicant's eligibility for social security benefits on the basis of a disability, an administrative law judge ("ALJ") must determine whether the applicant "can make an adjustment to other work." 20 C.F.R. § 404.1520(a)(4)(v). This determination must be supported by substantial evidence. *See* 42 U.S.C. § 405(g). In making the determination, an ALJ is authorized to call a vocational expert to testify about other work available to an applicant. *See* 20 C.F.R. § 404.1566(e). These assessments occur hundreds of thousands of times annually.

The question presented is:

Whether a vocational expert's testimony can constitute substantial evidence of "other work," 20 C.F.R. § 404.1520(a)(4)(v), available to an applicant for social security benefits on the basis of a disability, when the expert fails upon the applicant's request to provide the underlying data on which that testimony is premised.

CERT. GRANTED 6/25/2018