

02-763 BARNHART v. THOMAS

Ruling below: CA 3, 294 F.3d 568.

QUESTION PRESENTED

Titles II and XVI of the Social Security Act define disability as the "inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months." 42 U.S.C. 423(d)(1)(A); 42 U.S.C. 1382c(a)(3)(A). The Act further provides that a claimant "shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy." 42 U.S.C. 423(d)(2)(A); 42 U.S.C. 1382c(a)(3)(B). Under the Act, "work which exists in the national economy" means "work which exists in significant numbers either in the region where such individual lives or in several regions in the country ." 42 U.S.C. 423(d)(2)(A); 42 U.S.C. 1382c(a)(3)(B). The question presented is:

Whether the Commissioner of Social Security may determine that a claimant is not "disabled" within the meaning of the Act because the claimant remains physically and mentally able to do her previous work, without considering whether that particular job exists in significant numbers in the national economy.

CERT. GRANTED: 2/24/03