

functionally equal the listings. Therefore, she found that Lamanuel was not disabled.

The Appeals Council denied the request for review and the claimant appealed to the United States District Court for the Eastern District of Wisconsin. The United States Magistrate Judge recommended that the ALJ's decision be affirmed, because the conclusion that Lamanuel did not have mental retardation was supported by substantial evidence. The district court adopted the Magistrate Judge's report and recommendation, and found that the ALJ had adequately supported her conclusion that Lamanuel did not have mental retardation. The district court therefore affirmed the Social Security Administration's (SSA's) final decision.

On appeal to the United States Court of Appeals for the Seventh Circuit, Blakes offered several arguments. Blakes argued that the ALJ failed to build a "logical bridge" between the evidence and her conclusions, and that the ALJ relied on her own judgment about the cause of Lamanuel's impairments without any medical support in the record for that judgment. In addition, she argued that the ALJ should have called upon a medical expert to testify at the hearing, and that Lamanuel's impairments met the requirements of Listing 112.05D.<sup>1</sup>

In remanding the case for further proceedings, including testimony from an expert witness, the Court of Appeals held that the ALJ must apply the pre-September 20, 2000, version of listing 112.05 in this case as the Court interpreted it. The Court noted that after the ALJ had decided the case, SSA issued final rules that, among other things, revised Listings 12.05 and 112.05.<sup>2</sup> The court stated that the new version of listing 112.05 "introduced a new, dual requirement" that an individual satisfy the diagnostic description of the introductory paragraph and one of the six sets of criteria following the introductory paragraph. The Court of Appeals held that the pre-September 20, 2000, version of the Listings that had been applied by the ALJ in her decision did not require an individual to meet the diagnostic description for mental retardation, only the other criteria of the Listing. The

Court of Appeals also held that, on remand, the ALJ should apply the Court of Appeals' interpretation of the pre-September 20, 2000, version of the listings.

#### *Statement As To How Blakes Differs From SSA's Interpretation*

Our interpretation of the pre-September 20, 2000, version of Listings 12.05 and 112.05 is the same as our interpretation of the current listings. The diagnostic description of mental retardation contained in the introductory paragraph of these Listings, or "capsule definition," is an integral part of their criteria, as in all of the mental disorders listings. For example, in Acquiescence Ruling 98-2(8), acquiescing in the decision in *Sird v. Chater*, 105 F.3d 401 (8th Cir. 1997), we explained that "SSA's interpretation of the [pre-September 2000 version of] Listing [12.05] is that, if an individual has:

(1) mental retardation, i.e., significantly subaverage general intellectual functioning with deficits in adaptive behavior initially manifested during the developmental period, or autism, i.e., a pervasive developmental disorder characterized by social and significant communication deficits originating in the developmental period;

(2) a valid verbal, performance or full scale IQ in the range specified by Listing 12.05C; and

(3) a physical or other mental impairment that is severe within the meaning of 20 CFR 404.1520(c) or 416.920(c), the individual's impairments meet Listing 12.05C."<sup>3</sup> Therefore, the revisions that became effective on September 20, 2000, were intended only to clarify sections 12.00A and 112.00A of the introductory text of the mental disorders listings and were not a change in policy. See 65 FR at 50776, 50779.

The holding is also inconsistent with our interpretation of the effective date provision of the final rules that became effective on September 20, 2000. We interpret the effective date provision of the final mental disorders rules to mean that, when a court decides a case after the effective date of the final rules, reverses the Commissioner's final decision, and remands the case for further administrative proceedings, we will apply the provisions of the final rules on remand to the entire period at issue in the claim. We do not apply the version of our rules that the adjudicator applied at the time the case originally

was adjudicated, since that decision has been vacated. Rather, as is the case with respect to other determinations and decisions, we apply our current rules to the entire period at issue.

The Court of Appeals, on the other hand, concluded that, on remand, the ALJ should apply the pre-September 20, 2000, version of the Listings (as the Court interpreted it, different from our intent), even though the ALJ will issue the hearing decision after the September 20, 2000, effective date of the final rules.

#### *Explanation of How SSA Will Apply the Blakes Decision Within the Circuit*

This Ruling applies only to cases in which the claimant resides or resided in Illinois, Indiana, Wisconsin at the time of the court remand and applies only to ALJ hearing or Appeals Council decisions made pursuant to a court's remand order.

This Ruling applies to any case involving:

(1) A final ALJ's or Appeals Council's decision, made prior to September 20, 2000, that was appealed to and remanded by the court, and; and

(2) Evidence of a medically determinable mental impairment to be evaluated under Listings 12.05 or 112.05.

In deciding cases that meet the criteria in the preceding two paragraphs, the ALJ or Appeals Council will apply the Seventh Circuit's interpretation of the pre-September 20, 2000, version of Listings 12.05 or 112.05. The ALJ or the Appeals Council will not require that the claimant meet the capsule definition of mental retardation in order to meet Listing 12.05 or 112.05. To meet a listing, the claimant need only satisfy the requirements of subsections A through D of listing 12.05 or subsections A through F of listing 112.05, as appropriate to the individual's age.

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## DEPARTMENT OF STATE

[Public Notice 4564]

### **Culturally Significant Objects Imported for Exhibition Determinations: "The Annunciation and The Bridge at Courbevoie"**

AGENCY: Department of State.

ACTION: Notice.

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March

<sup>1</sup> Although *Blakes* was a title XVI childhood disability case involving the application of Listing 112.05D, similar principles also apply to disability claims involving Listing 12.05 under title II and title XVI of the Act. Therefore, this Ruling extends to both title II and title XVI disability claims involving Listings 12.05 and 112.05.

<sup>2</sup> See 65 FR 50746 (2000). The final rules were published on August 21, 2000, and they became effective on September 20, 2000. *Id.* at 50746.

<sup>3</sup> We rescinded Acquiescence Ruling 98-2(8) when we revised the mental disorders listings in 2000. 65 FR 50784 (2000).