

JUN 04 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION  
UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

ALFONSO TYLER,

Plaintiff,

and

ZINA TYLER,

Plaintiff - Appellant,

v.

MICHAEL J. ASTRUE,

Defendant - Appellee.

No. 08-15275

D.C. No. CV-07-02229-MHP

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
Marilyn H. Patel, District Judge, Presiding

Argued and Submitted May 15, 2009  
San Francisco, California

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

Before: SCHROEDER and D.W. NELSON, Circuit Judges, and MARSHALL,\*\*  
District Judge.

Zina Tyler appeals from the district court's order affirming an Administrative Law Judge's ("ALJ") decision that she is not eligible for Disabled Adult Child Benefits pursuant to 42 U.S.C. § 402(d)(1). The ALJ had determined that no medical evidence supported Tyler's contention that she was disabled prior to her twenty-second birthday.

Tyler appealed the district court's ruling, and this court appointed pro bono counsel to represent her pursuant to the court's Pro Bono Representation Project. See General Order 3.8. Pro bono counsel commendably pointed out to this court that certain documents submitted to the district court, which supported an early disability onset date, had been altered.

Social Security Regulation 83-20 requires an ALJ to call upon the services of a medical advisor if the disability onset date is uncertain. See, e.g., Armstrong v. Comm'r of Soc. Sec. Admin., 160 F.3d 587, 589-90 (9th Cir. 1998). In this case, however, there was no need for the ALJ to call upon those services. The altered documents undermine Tyler's assertion that she was, in fact, disabled prior to turning twenty-two. Without the altered documents, there is no medical

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\*\* The Honorable Consuelo B. Marshall, Senior United States District Judge for the Central District of California, sitting by designation.

evidence in the record supporting such an early onset date. Because Tyler's onset date was not uncertain, the ALJ was under no duty to call a medical expert to the hearing.

Moreover, the ALJ fulfilled his duty to fully and fairly develop the record by requesting Tyler's medical records from several different facilities, suggesting the hearing be continued until Tyler could retain a new attorney, and keeping the record open after the hearing so that she could supplement the record with medical evidence. See Tonapetyan v. Halter, 242 F.3d 1144, 1150 (9th Cir. 2001).

**AFFIRMED.**