

United States Court of Appeals

FOR THE EIGHTH CIRCUIT

---

No. 97-2086

---

Cyrill Athanasios Kolocotronis,	*	
	*	
Appellant,	*	
	*	Appeal from the United States
v.	*	District Court for the Eastern
	*	District of Missouri.
Social Security Administrator,	*	
	*	[UNPUBLISHED]
Appellee.	*	

---

Submitted: April 28, 1997

Filed: May 13, 1997

---

Before BEAM, LOKEN and MORRIS SHEPPARD ARNOLD, Circuit Judges.

---

PER CURIAM.

Cyrill A. Kolocotronis brought this action in the district court alleging that he was improperly deprived of Social Security benefits while he was involuntarily detained as a state mental patient. The district court determined that the claim was frivolous and dismissed the complaint pursuant to 28 U.S.C. § 1915(e)(2)(B), finding that Kolocotronis as an individual confined in a penal institution on a felony conviction was not entitled to Social Security benefits. See Order dated February 3, 1997. The court in a subsequent order dated March 18, 1997, found that Kolocotronis was not an incarcerated felon after all because he was actually found not guilty because of his mental state at the time of the alleged offense. After this later finding, the court

did not, however, revisit the issue of whether the claim was frivolous. This should have been done. We, therefore, remand this matter to the district court for further consideration in view of its holding of March 18, 1997.

A true copy.

Attest:

CLERK, U. S. COURT OF APPEALS, EIGHTH CIRCUIT.