

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

\_\_\_\_\_  
No. 05-12748  
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FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT APR 20, 2006 THOMAS K. KAHN CLERK
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D. C. Docket No. 03-00162-CV-RLH-1

CARL R. CARTE,

Plaintiff-Appellant,

versus

JO ANNE B. BARNHART,  
Commissioner of Social Security,

Defendant-Appellee.

\_\_\_\_\_  
Appeal from the United States District Court  
for the Middle District of Georgia  
\_\_\_\_\_

**(April 20, 2006)**

Before DUBINA, MARCUS and PRYOR, Circuit Judges.

PER CURIAM:

Carl Ray Carte appeals the decision of the district court affirming the

determination of the Administrative Law Judge that Carte was not without fault in the overpayment of \$38,127.20 in disability benefits. See 42 U.S.C. § 404(b). The ALJ determined that Carte was not without fault because Carte had failed to report his work status to the Social Security Administration on a yearly basis. Because the ALJ applied the wrong reporting requirement in determining fault, we reverse and remand.

The reporting requirement that applies to recipients of disability benefits instructs, “If you are entitled to cash benefits or to a period of disability because you are disabled, you should promptly tell us if -- (a) Your condition improves; (b) You return to work; (c) You increase the amount of your work; or (d) Your earnings increase.” 20 C.F.R. § 404.1588. There is no “yearly” reporting requirement in this provision. Although the regulations contain a yearly reporting requirement, it does not apply to disability benefits: “If you have not reached full retirement age . . . and you are entitled to a monthly benefit, other than only a disability insurance benefit, you are required to report to us the total amount of your earnings . . . for each taxable year.” 20 C.F.R. § 404.452(a)(1) (emphasis added). On remand, the ALJ should apply the correct reporting requirement to determine whether Carte was without fault.

**REVERSED and REMANDED.**