

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

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**No. 04-5243**

**September Term, 2004**

FILED ON: APRIL 27, 2005 [891139]

ELGIN NATIONAL INDUSTRIES, INC.,  
APPELLANT

v.

JO ANNE B. BARNHART, COMMISSIONER, SOCIAL SECURITY,  
APPELLEE

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Consolidated with 04-7094

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Appeals from the United States District Court  
(USDC) for the District of Columbia  
(No. 00cv02040)  
(No. 01cv00397)

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Before: GINSBURG, *Chief Judge*, and ROGERS and TATEL, *Circuit Judges*.

## **J U D G M E N T**

This cause was considered on the record from the United States District Court for the District of Columbia and on the briefs and the arguments of the parties. It is

ORDERED AND ADJUDGED that the judgment of the District Court is affirmed for the reasons stated in its memorandum opinion: The assignments challenged by Elgin are not unconstitutional in light of *Eastern Enterprises v. Apfel*, 524 U.S. 498 (1998), because Elgin is a “related person” to a signatory to a 1974 or later coal wage agreement. See 26 U.S.C. § 9706(a). Additionally, the District Court properly decided the Commissioner of Social Security had substantial evidence to support the challenged assignments. Elgin’s argument pertaining to the reassignment of beneficiaries after *Eastern Enterprises* is rejected for the reasons set forth in *Pittston Co. v. United States*, 368 F.3d 385, 401-05 (4th Cir. 2004).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. *See* FED. R. APP. P. 41(b); D.C. CIR. RULE 41.

**FOR THE COURT:**

Mark J. Langer, Clerk

BY:

Deputy Clerk