



## Justice-Involved Persons and SSA Benefits

SSA and Penal Institutions	SSR 83-21	Martinez v. Astrue (Fleeing Felon Rule)
<p>SSA regulates the receipt of disability benefits while a person is incarcerated in a penal institution. The rules are different for both SSI and SSDI beneficiaries.</p> <p><b>For SSI Recipients:</b></p> <ul style="list-style-type: none"> <li>When an SSI recipient is incarcerated in a penal institution such as jail or prison for a full calendar month their benefits are suspended.</li> <li>If the individual is released in less than 12 calendar months their benefits can be reinstated upon release. The individual needs to bring proof of their incarceration or proof of release papers to the local SSA field office. SSA will review their new living arrangement and reinstate payments.</li> <li>If an SSI recipient is incarcerated for 12 consecutive calendar months their SSI benefits are terminated and they must reapply. Reapplication can be made 30 days prior to their expected release date but benefits cannot begin until release.</li> </ul> <p><b>For SSDI Recipients:</b></p> <ul style="list-style-type: none"> <li>SSDI recipients are eligible to continue receiving their benefits until they are convicted of a criminal offense and confined to a penal institution for more than 30 continuous days. After that time, benefits are suspended.</li> <li>Benefits are reinstated the month following their release into the community.</li> </ul>	<p>Applies to Title II (SSDI) benefits and the determinations of disability for prisoners and persons convicted of or connected to a felony.</p> <ul style="list-style-type: none"> <li>Individuals with impairments that originate or are aggravated by the individual’s involvement during the commission of a felony, will <b>NOT</b> be considered in the disability determination. These impairments will not be considered for the lifetime of the individual. <b>Example:</b> <i>Mike commits a home invasion and is shot by the homeowner. The gunshot injures Mike’s spine and he is now paralyzed and restricted to a wheelchair. Mike’s spinal injuries, obtained during the commission of a felony, will never be considered in the disability determination.</i></li> <li>A disabling impairment that is “confinement related”, may not be considered in determining disability for benefits payable during confinement, but may be considered after the individual has been released. <b>Example:</b> <i>While Mike is incarcerated, he is assaulted by his bunkmate and suffers from traumatic brain injury (TBI). While still incarcerated, Mike is not eligible for SSA benefits payments. However, once Mike is released from prison, he may apply for benefits based on the TBI.</i></li> </ul> <p><b>These restrictions do not apply to Title XVI (SSI) cases</b></p>	<p><b>What does it say?</b></p> <ul style="list-style-type: none"> <li>Offers relief from arbitrary suspension and denial of benefits based solely on the fact that the applicant had an active felony warrant.</li> <li>Does NOT apply to persons whose benefits were denied or stopped because of an arrest warrant due to parole or probation violation.</li> <li>Effective April 1, 2009, SSA limited suspension and denial of benefits only to active warrants issued for the following:             <ol style="list-style-type: none"> <li>Flight to avoid prosecution or confinement</li> <li>Escape from custody</li> <li>Flight escape</li> <li>Warrants for probation or parole violations</li> </ol> </li> </ul> <p><b>Clark v. Astrue (Clark Court Case)</b></p> <p><b>What does it say?</b></p> <ul style="list-style-type: none"> <li>Effective May 9, 2011, SSA will no longer suspend or deny SSI or SSDI payments to an individual based solely on an outstanding probation or parole violation warrant with any of the following codes:             <ul style="list-style-type: none"> <li>5011 – Parole Violation</li> <li>5012 – Probation Violation</li> <li>8101 – Juvenile Offenders – abscond while on parole</li> <li>8102 – Juvenile Offenders – abscond while on probation</li> <li>9999 – with offense charge symbol of “probation or parole violation”</li> <li>“BLANK” – with an offense charge symbol of “probation or parole violation”</li> </ul> </li> </ul>