

IP 01-1376-C T/F Cangany v. Barnhart
Judge John D. Tinder

Signed on 6/27/02

NOT INTENDED FOR PUBLICATION IN PRINT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

CANGANY, ANGELA M,)	
)	
Plaintiff,)	
vs.)	
)	
BARNHART, JO ANNE B,)	CAUSE NO. IP01-1376-C-T/F
COMMISSIONER OF SOCIAL SECURITY,)	
)	
Defendant.)	

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ANGELA M. CANGANY,)
)
 Plaintiff,) IP 01-1376-C-T/F
)
 vs.)
)
 JO ANNE B. BARNHART,)
 Commissioner of Social Security,)
)
 Defendant.)

ENTRY REVIEWING COMMISSIONER’S DECISION¹

Plaintiff requests judicial review of the final decision of the Commissioner of Social Security (“Commissioner”) denying her application for Disability Insurance Benefits (“DIB”) and Supplemental Security Income (“SSI”) under Titles II and XVI of the Social Security Act (the “Act”). The court rules as follows.

I. BACKGROUND

Plaintiff, Angela M. Cangany, applied for DIB on June 18, 1999, and SSI on September 8, 1999 alleging disability since October 1, 1998. (R. at 229-31, 431-33.) The Agency denied Plaintiff’s applications initially, (R. at 209-12), and again on

¹This Entry is a matter of public record and is being made available to the public on the court’s website, but it is not intended for commercial publication either electronically or in paper form. Although the ruling or rulings in this Entry will govern the case presently before this court, this court does not consider the discussion in this Entry to be sufficiently novel or instructive to justify commercial publication or the subsequent citation of it in other proceedings.

reconsideration. (R. at 434-37.) The Administrative Law Judge (“ALJ”), James Norris, held both an initial and supplemental hearing, and on February 14, 2001, the ALJ found that, despite her impairments, Plaintiff was capable of performing her past job as a cashier clerk. Therefore, the ALJ denied Plaintiff’s DIB and SSI claims. (R. at 32-40.) The Appeals Council denied Plaintiff’s request for review and the ALJ’s decision became the final decision of the Commissioner. (R. at 6-7.)

A. Plaintiff’s Testimony²

Plaintiff testified that when she stood for only a few minutes, she experienced severe lower back pain. She also testified that she could walk for no more than five minutes, sit for no more than thirty minutes, and lifting more than five pounds caused severe lower back pain. (R. at 102-03.)

B. Medical Evidence

On September 14, 1999, Dr. H. Edwin Campbell, a gynecologist, reported that Plaintiff was tender over her lumbosacral spine and over the L4 and L5 areas, but that she was very hard to examine and quite overweight. (R. at 347.) An MRI was scheduled, and a few days later, on September 17, 1999, Plaintiff was again admitted to the emergency room because of pain in her back and abdomen. (R. at 361-62.) The physician who

²Though there is evidence regarding a host of symptoms and complaints, the court focuses solely on Plaintiff’s back problems.

examined Plaintiff discussed at length the possibility that she might have endometriosis.³ (R. at 362.) The next day, on September 18, 1999, the scheduled MRI showed some degenerative changes in the facet joints at L4-5 and L5-S1. There was also some mild bulging at T11-12 with spondylosis,⁴ and minimal deformity of the thecal sac, but no cord compression. (R. at 302.)

II. DISCUSSION

A. Standard of Review

The standard of review in these cases is a deferential one. The Act requires the reviewing court to accept the ALJ's findings of fact as conclusive, "so long as substantial evidence supports them and no error of law has occurred." *Dixon v. Massanari*, 270 F.3d 1171, 1176 (7th Cir. 2001). Substantial evidence is defined as such relevant evidence that a reasonable mind could accept as adequate to support a conclusion. *Id.*; *Zurawski v. Halter*, 245 F.3d 881, 887 (7th Cir. 2001).

In addition, the court is at liberty to review the entire record to determine if there is relevant evidence adequate to support the ALJ's conclusion. However, it does not decide the facts anew, re-weigh evidence, or substitute its judgment for that of the ALJ. *Butera v.*

³Ectopic occurrence of endometrial tissue, frequently forming cysts containing altered blood. *Stedman's Medical Dictionary* 570 (26th ed. 1995).

⁴Ankylosis of the vertebra; often applied nonspecifically to any lesion of the spine of a degenerative nature. *Stedman's Medical Dictionary* 1656 (26th ed. 1995).

Apfel, 173 F.3d 1049, 1055 (7th Cir. 1999). Although the ALJ is not required to address every piece of evidence, it is necessary that he express clearly a legitimate and logical reason for his decision. Most importantly, he must “build an accurate and logical bridge from the evidence to his conclusion.” *Clifford v. Apfel*, 227 F.3d 863, 872 (7th Cir. 2000).

B. Analysis

In order to qualify for disability benefits under the Act, a claimant must prove that she suffers from a “disability”,⁵ as it is defined by the Act. The ALJ performs a five-step inquiry in order to determine whether a claimant is disabled. This inquiry includes determining: (1) whether a claimant has engaged in work activity which is both substantial and gainful within the past twelve months; (2) whether a claimant’s impairment significantly limits his/her physical or mental ability to do basic work activities, thus constituting a severe impairment; (3) whether a claimant has an impairment which meets or equals those listed in the Listing of Impairments; (4) whether a claimant is unable to perform past relevant work; and (5) whether a claimant is able to engage in other work existing in significant numbers in the economy. 20 C.F.R. § 404.1520(b)-(f).

In the instant case, the ALJ determined that Plaintiff had a Residual Functional Capacity (“RFC”) to perform light work with the following restrictions: occasional climbing,

⁵Disability is defined as, “the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months.” 42 U.S.C. § 423(d)(1)(A).

balancing, stooping, kneeling, crouching, and crawling; avoidance of concentrated exposure to extreme cold, extreme heat, wetness and humidity; and also avoidance of even moderate exposure to fumes, odors, dusts, gases, and poor ventilation. (R. at 37-38.) He further determined that Plaintiff was able to perform her past relevant work as a cashier. (R. at 39.) As a result, the ALJ found that Plaintiff was not disabled within the meaning of the Act. (*Id.*)

Plaintiff appeals this decision on several grounds. However, this appeal can be decided on the issue of whether the ALJ assessed all the relevant evidence when determining whether Plaintiff was disabled. Plaintiff argues that the ALJ ignored relevant evidence pertaining to her back problems. More specifically, she argues that: (1) she meets the requirements of Listing 1.05(C)⁶; (2) the ALJ ignored Plaintiff's claim of chronic back pain; (3) the ALJ ignored exam findings by Dr. Campbell; and (4) the ALJ ignored the results of an MRI that showed Plaintiff had severe spinal impairments.

As stated before, it is necessary for the ALJ to "build an accurate and logical bridge from the evidence to his conclusion." *Clifford*, 227 F.3d at 872. If an ALJ fails to address a line of evidence, it is necessary that he articulate his reasons for doing so. "[A]ll medical evidence that is credible, supported by clinical findings, and relevant to the question at hand should be considered and discussed by the ALJ. The decision should contain and should be based upon a fair and impartial presentation of the medical evidence submitted

⁶Plaintiff also mentions Listing 1.00, which is the general listing for musculoskeletal impairments.

by the claimant or obtained from other sources.” *Garfield v. Schweiker*, 732 F.2d 605, 610 (7th Cir. 1984).

It is not the job of the reviewing court to decide the facts anew, but it must be able to say that the evidence is such that a reasonable mind would find the evidence substantial enough to reach the ALJ’s conclusion. The reviewing court is unable to do so when it cannot be certain whether the ALJ considered all the relevant evidence. “In the absence of an explicit and reasoned rejection of an entire line of evidence, the remaining evidence is ‘substantial’ only when considered in isolation.” *Zblewski v. Schweiker*, 732 F.2d 75, 78-79 (7th Cir. 1984).

Plaintiff contends that the ALJ ignored her complaints of chronic lower back pain. An ALJ may discount subjective complaints of pain that are inconsistent with the evidence as a whole. *Knight v. Chater*, 55 F.3d 309, 314 (7th Cir. 1995). However, the ALJ may not disregard subjective complaints merely because they are not fully supported by objective medical evidence. (*Id.*) In this case, the Plaintiff’s subjective complaints of back pain find at least some support in Dr. Campbell’s report and the results of the MRI. The ALJ needs to address Plaintiff’s subjective complaints of chronic lower back pain, and the resulting limitations on her ability to perform basic work functions, such as standing, sitting, walking, lifting, and carrying. (R. at 72-73, 102-103.)

Because the findings of Dr. Campbell and the results of the MRI might change, or render invalid the ALJ’s RFC determination, and/or the Vocational Expert’s assessment of

jobs available to the Plaintiff, it is necessary that the ALJ articulate his reasons for discounting this line of evidence.⁷ In not addressing the results of the MRI and the examination by Dr. Campbell, the ALJ makes no comment on a major line of evidence. The Commissioner argues that this evidence would not alter the findings made by the ALJ. This very well could be true. However, the Commissioner does not recognize that the ALJ does not appear to have decided these issues, leaving this court no basis on which to review this decision.

Finally, the ALJ does not mention Listing 1.05(C) in his analysis of step three. (R. at 37.) In order to meet the requirement, Plaintiff must show: (1) pain, muscle spasm, and significant limitation of motion; and (2) appropriate radicular distribution of significant motor loss with muscle weakness, and sensory and reflex loss. 20 C.F.R. Pt. 404, Subpt. P, App. 1, § 1.05(C). The Commissioner argues that neither Dr. Campbell's report nor the MRI show that Plaintiff meets these requirements. (Def.'s Br. at 9-10.) Though this may be a valid argument, it is necessary for the ALJ himself to address these issues in his report so this court can be sure that the ALJ decided the facts, weighed the evidence, and decided whether Plaintiff met the requirements for Listing 1.05(C).

For the court to review the ALJ's decision that Plaintiff has an RFC to perform light

⁷That is, of course, assuming that the ALJ did not simply ignore the MRI and the findings of Dr. Campbell. This court has no way of determining if either were even considered. The ALJ, however, deserves the benefit of the doubt, and the court assumes that the evidence was diligently reviewed, but that a discussion of it was mistakenly left out of the decision.

work with restrictions and is capable of performing her past relevant work as a cashier, the ALJ needs to show that he considered and evaluated all the relevant evidence that was presented. In the absence of such an articulation, the court cannot say that the ALJ built a logical bridge between the evidence and his conclusion, and in addition, whether there was substantial evidence supporting the ALJ's decision.

III. Conclusion

For the foregoing reasons, the final decision of the Commissioner of Social Security in this case is **REVERSED** and this case is **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g) for proceedings consistent with this Entry to allow the ALJ to evaluate the evidence of Plaintiff's back problems, including the MRI done in 1998, the examination performed by Dr. Campbell, and Plaintiff's subjective complaints of back pain, and articulate how this evidence affects the disability determination.

ALL OF WHICH IS ORDERED this 27st day of June 2002.

John Daniel Tinder, Judge
United States District Court

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