



Shanholtz v. Saul

2021 | Cited 0 times | D. Maryland | January 14, 2021

UNITED STATES DISTRICT COURT

DISTRICT OF MARYLAND CHAMBERS OF DEBORAH L. BOARDMAN UNITED STATES
MAGISTRATE JUDGE

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January 14, 2021

LETTER TO COUNSEL RE: Lacey S. v. Saul Civil No. DLB-20-640

Dear Counsel:

On March 3, 2020, plaintiff petitioned this Court to review the Social Security s for Disability Insurance Benefits and Supplemental Security Income. ECF 1. -motions for summary judgment. ECF 17 ; ECF 18 . I find no hearing necessary. See Loc. R. 105.6 (D. Md. 2018). This Court must uphold the denial if the SSA employed correct legal standards in making findings supported by substantial evidence. 42 U.S.C. §§ 405(g), 1383(c)(3); Craig v. Chater, 76 F.3d 585, 589 (4th Cir. 1996). Under that standard, I will deny p sentence four of 42 U.S.C. § 405(g). See 42 U.S.C. § 1383(c)(3). This letter explains my rationale.

Plaintiff filed her claims for benefits on February 6, 2017, alleging an onset date of August 7, 2007. Tr. 215-28. The SSA denied her claims initially and on reconsideration. Tr. 143-46, 139-41. A held a hearing on February 22, 2019, at which plaintiff amended her alleged onset date to May 1, 2017. Tr. 37-78. Following the hearing, the ALJ determined plaintiff was not disabled within the meaning of the Social Security Act during the relevant time frame. Tr. 16-36. Because the Appeals Council denied p reviewable decision of the SSA. Tr. 2-7; see Sims v. Apfel, 530 U.S. 103, 106-07 (2000); 20 C.F.R. § 422.210(a).

The ALJ found plaintiff severely impaired by degenerative joint disease-post traumatic osteoarthritis of multiple joints, degenerative disc disease of cervical spine and lumbar spine, generalized anxiety



Shanholtz v. Saul

2021 | Cited 0 times | D. Maryland | January 14, 2021

disorder, post-traumatic stress disorder (PTSD), neurocognitive disorder, migraines, chronic pain disorder, and status post left and right ruptured Achilles tendon repair. Tr. 21-22. Despite these impairments, the ALJ determined plaintiff retained the residual functional

perform the full range of light work as defined in 20 CFR 404.1567(b) and 416.967(b) except the claimant can never climb ladders, ropes or scaffolds. She can occasionally perform all other postural activities. She should never work around hazards such as moving mechanical parts, unprotected heights, fire and open bodies of water. She should never operate a motor vehicle as part of her job related duties. The claimant can perform simple, routine, repetitive tasks, but no pace limitations (sic). She is capable of occasional interaction with supervisors, co-workers and the general public. Tr. 24. plaintiff could perform her past relevant work as a conveyor belt package sorter and other work existing in significant numbers in the national economy. Tr. 29-31. Therefore, the ALJ concluded plaintiff was not disabled. Tr. 31.

On appeal, requirements of *Mascio v. Colvin*, 780 F.3d 632 (4th Cir. 2015). is

The Fourth Circuit in *Mascio* remanded for, as pertinent to this case, the inadequacy of the RFC assessment with respect to the p persistence, or pace . 780 F.3d at 638. CPP is one of four, broad functional areas an ALJ must

1 20 C.F.R. Pt. 404, Subpt. P, see 20 C.F.R. §§ 404.1520a, 416.920a assesses the [his] ability to function independently, §§ 404.1520a(c)(2), 416.920a(c)(2). The ALJ then rates using a five- point scale: none, mild, moderate, marked, or extreme. Id. §§ 416.920a(c)(4). A moderate limitation signifies the claimant fair abilities in the relevant functional area. 20 C.F.R. Pt. 404,

In *Mascio*, the ALJ found the plaintiff moderately limited in CPP but confined the 780 F.3d at 637-38. The Fourth Circuit remanded, holding an ALJ does not summarily account for a moderate CPP limitation by restricting Id. at 638; see *Shinaberry v. Saul*, 952 F.3d 113, 121 (4th Cir. 2020). The Fourth Circuit subsequently emphasized *Mascio* limitation in the RFC. *Shinaberry*, 952 F.3d at 121 (finding the ALJ adequately explained how

an RFC limited to simple, routine, 1

Three other functional areas also require assessment: (1) the ability to understand, remember, or apply information; (2) the ability to interact with others; and (3) the ability to adapt or manage oneself. 20 C.F.R.

report, all of which supported his conclusion). Rather, an ALJ need only explain how substantial See, e.g., *Sizemore v. Berryhill*, 878 F.3d 72, 79-81 (4th Cir. 2017) (holding two medical opinions tiff could work in a low stress setting, defined as non-production jobs without any fast-paced work, despite his moderate CPP limitation); see SSR 98-8p, 1; *Thomas v. Berryhill* analysis has t



Shanholtz v. Saul

2021 | Cited 0 times | D. Maryland | January 14, 2021

Here, the ALJ applied the special technique and found plaintiff moderately limited in CPP: With regard to concentrating, persisting, or maintaining pace, the claimant has a moderate limitation. The claimant retains the concentration, persistence and pace to do such things as watch television, count change, pay bills, handle a saving account and maintain a daily routine. Moreover, the claimant indicates that she wakes up, sometimes cooks and cleans, and then goes to bed. She also has enough concentration, persistence and pace, to drive, use a cellphone (to text), and assist with taking care of her children. Examinations reveal that she has the ability to display a normal/fair memory, a normal thought process, and a normal concentration/ability to be alert. At the hearing, she displayed enough concentration to respond to questions when asked, wait until the question was asked to give a response, and give coherent answers to questions. I find that the claimant has a moderate limitation based on the evidence of record. Tr. 23-24 (internal citations omitted).

Plaintiff argues that, in light this CPP finding, the RFC determination violates Mascio mandate because the ALJ excluded an - from the RFC and the RFC, therefore, does not account for her moderate CPP limitation 9-10; see Mascio, 780 F.3d at 638.

- that Mascio -4 (citing Shinaberry, 952 F. Sizemore Id. at 4. The Commissioner analogizes the present case to Sizemore by pointing out that here, as in Sizemore, the state agency psychologists opined that though plaintiff is moderately limited in CPP, -hour intervals while accomplishing job tasks consisting of straightforward, recurring, and uniform s mentally able to perform simple, routine, and repetitive tasks and some complex tasks in settings Id. (citing Tr. 24, 28, 90, 93, 94, 105, 106, 102, 117, 121, 131, 135). weight[, as the opinions] are consistent with the evidence, including [with the fact that] when on medication, 1A, 5A, 1F at 7-16, 4F at 2, 16F at 2, 4, 6).

I agree with the Commissioner that the state agency psychologist medical opinions, which the ALJ cited, provide substantial evidence for the RFC determination the ALJ assigned plaintiff.

P - [pla requiring the ALJ to come to a different RFC determination. Id. Plaintiff essentially seeks a favorable conclusion as to the record evidence by asking this Court to reweigh the evidence, some beyond the power of a federal court iance with the applicable legal standards and supportability by substantial evidence. See Hays v. Sullivan, 907 F.2d 1453, 1456 (4th Cir. 1990).

Ultimately, the law confines my review to whether the ALJ employed correct legal standards in making factual findings supported by substantial evidence. Craig, 76 F.3d at 589. Inherently limited in scope, substantial evidence review asks only whether the record contains such relevant evidence as a reasonable mind might accept as adequate to support a conclusion Richardson v. Perales, 402 U.S. 389, 390, 401 (1971). The inquiry is therefore not whether I agree s them. See Hays, 907 F.2d at 1456. On the record before me, I find the ALJ applied correct legal standards and made findings supported by substantial evidence.

For the reasons set forth herein, p motion for summary judgment, ECF 17, is denied, and d motion



Shanholtz v. Saul

2021 | Cited 0 times | D. Maryland | January 14, 2021

for summary judgment, ECF 18, is granted is affirmed pursuant to sentence four of 42 U.S.C. § 405(g).

Despite the informal nature of this letter, it should be flagged as an opinion. A separate order follows.

Sincerely yours, /s/ Deborah L. Boardman United States Magistrate Judge

