**NONPRECEDENTIAL DISPOSITION**
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# United States Court of Appeals

**For the Seventh Circuit**
**Chicago, Illinois 60604**

Argued June 6, 2023
Decided July 14, 2023

***Before***

MICHAEL B. BRENNAN, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

No. 22-2548

JENNETTA F. GREER,
*Plaintiff-Appellant*,

*v*.

KILOLO KIJAKAZI,
Acting Commissioner of Social Security,
*Defendant-Appellee*.

Appeal from the United States District Court for the Southern District of Illinois.

No. 20-cv-1272-SMY

Staci M. Yandle,
*Judge*.

**O R D E R**

Jennetta Greer suffers from several physical ailments, including pain and swelling in her lower extremities, which limit her ability to work. She applied for Social Security disability benefits, but an administrative law judge ("ALJ") denied her application after finding that she could perform her past work as an insurance agent and file clerk. The district court affirmed the denial of benefits. Greer appeals, arguing that the ALJ relied on a consulting physician's opinion that was called into doubt by

new medical evidence, which the ALJ did not comment upon. Because this new evidence of diminished strength in Greer's lower extremities may affect the medical opinions in the record, we vacate the judgment and remand for further proceedings.

Greer worked as an insurance agent and file clerk from 1992 to 2009. The office job involved selling insurance policies and license plates. Greer lifted less than ten pounds at a time (license plates and customer files), walked five or six hours per day (going back and forth between file cabinets and customers), and never used heavy machines, tools, or equipment. The job ended when the business shut down. Then, between 2010 and 2014, Greer worked as a caregiver for her sister.

Greer began experiencing back pain in January 2014. Two rounds of x-rays that year revealed multilevel lumbar spondylosis (spinal degeneration).

After Greer's sister died in December 2014, Greer stopped working, and the physical condition of her legs and feet began to worsen.[1] In July 2015, Greer experienced swelling in her legs, and scans revealed evidence of deep venous thrombosis (blood clotting) in her left calf. The following year, in April 2016, Greer told her doctor about numbness and swelling in her legs, but exams revealed no swelling, a full range of motion, and intact sensation. Her doctor assessed diabetic peripheral neuropathy (damage to the nerves) in her lower extremities that can cause weakness, numbness, and pain.

Greer's doctor made similar assessments of her condition throughout the remainder of 2016. Another scan of her legs in April 2016 showed deep venous thrombosis on her left side. Greer continued to report pain and swelling in her feet and legs, but her doctor's assessments in July and September 2016 noted no swelling and intact sensation.

Greer experienced some improvement over the following year. In January 2017, Greer's doctor noted that she had been "treated with Coumadin" (a blood thinner), and

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[1] Although the condition of Greer's legs and feet are most relevant to this appeal, she also suffered from other ailments. For example, she went to the emergency room in June 2015 with a right-sided facial droop and was diagnosed as having experienced a transient ischemic attack (symptoms similar to a stroke). And in October 2015, after experiencing pelvic and hip pain, Greer received an x-ray showing mild osteoarthritic changes in her hips.

her deep venous thrombosis was "currently asymptomatic." During a follow-up in April 2017, the doctor noted that Greer's examination was "unremarkable," and her history of deep venous thrombosis was "resolved." The doctor also prescribed two drugs, Metformin (for her blood sugar) and Neurontin, generically known as gabapentin (for her pain), to address her diabetic peripheral neuropathy. In June 2017, Greer reported that these drugs provided "some relief." That month, the doctor noted her prognosis was "good" and prescribed shoe inserts to help with the neuropathy.

Greer filed an application for Disability Insurance Benefits in October 2017, and two months later received a consultative physical examination. The internal medicine doctor assessed chest pain, hypertension, diabetes, and a history of arthritis. Regarding Greer's ability to walk, the doctor observed that Greer had no swelling in her lower extremities, could bear weight and walk without ambulatory aids, and had "no specific motor weakness or muscle atrophy."

Three state-agency physicians reviewed the record at different stages and produced medical opinions. In December 2017, the first state physician, a physiatrist, noted evidence of Greer's hip arthritis, feet swelling, peripheral neuropathy, and complaints of numbness. She opined that Greer could lift 20 pounds occasionally and ten pounds frequently, and could only occasionally climb ramps and stairs, stoop, kneel, crouch, and crawl. She also concluded that Greer could stand or walk for "[a]bout 6 hours in an 8-hour workday."

The second state-agency physician issued a medical opinion in April 2018. The doctor, an anesthesiologist and general practitioner, reviewed the medical evidence and identified the same functional limitations as the first agency physician.

The third state-agency physician, neurologist Dr. Cristina Orfei, reviewed the record in May 2018. She noted that Greer had "intact strength and intact gait" and did not use ambulatory aids. She concluded that the functional capacity proposed by the other two state physicians was "not unreasonable," because Greer's "ambulation is not restricted."

In January, March, and June of 2018, Greer saw a podiatrist, Dr. Willie Brown, for diabetic foot care. Dr. Brown observed that Greer had toenail fungus, reduced pulses, swelling, and decreased sensation. Although Dr. Brown noted that Greer reported difficulty standing and walking, he did not assess her lower extremity strength.

Then, in December 2018, after the consulting physicians had concluded their reviews, Greer changed podiatrists and began seeing Dr. Natalie Mota. Dr. Mota observed diminished pulses and swelling but noted that Greer's "[g]eneral sensation appears intact." Dr. Mota also observed unremarkable gait and normal posture, propulsion, and balance. Notably, Dr. Mota assessed "diminished" muscle strength and tone. She made these same assessments—including diminished strength in Greer's lower extremities—during Greer's follow-up visits in March and August 2019. No agency physician interpreted Dr. Mota's records, and Greer's own doctors did not provide medical source statements.

At a hearing before the ALJ, Greer testified that she had "a couple of falls," she "can[] hardly walk," and she uses a walker and cane to move around her home. When sitting, she elevates her legs to waist level. She rarely leaves her home, except to go the grocery store, where she uses a motorized cart. When asked by the ALJ if she would be able to do her previous work as an insurance agent and file clerk (ten years earlier, at that point), Greer testified: "I don't think so. I don't think I would be able to do it because … I would have to probably go from sitting down to laying down or sitting down to walking."

The ALJ concluded that Greer was not disabled within the meaning of the Social Security Act and thus denied benefits. At step one of the five-step disability analysis, *see* 20 C.F.R. § 416.920(a)(4), the ALJ determined that Greer had not worked since she applied for benefits. At steps two and three, the ALJ determined that Greer had several severe impairments, including degenerative disc disease, degenerative joint disease of the hips, and neuropathy of the feet, but none of her impairments presumptively established that she was disabled.

Between steps three and four, the ALJ concluded that Greer could perform "light work," which the regulations describe in part as standing or walking, off and on, for six hours during an eight-hour workday. *See* 20 C.F.R. 404.1567(b); SSR 83-10, 1983 WL 31251 (Jan. 1, 1983). In making this determination, the ALJ found "persuasive" the medical consultants' opinions—each surmising that Greer could stand or walk for six hours a day—because they were "consistent and supported by the evidence of record." By contrast, the ALJ found that Greer's "statements concerning the intensity, persistence and limiting effects of [her] symptoms are not entirely consistent with the medical evidence and other evidence in the record." The ALJ stated that Greer's medical records document "normal ambulation and stance and only mildly diminished sensation in her feet," and "the treatment records from [her] treating physicians and

other medical providers show few signs or symptoms to support greater restrictions in [her] residual functional capacity due to her neuropathy."

Regarding the podiatry treatment records, the ALJ concluded that they "show mostly normal findings." The ALJ gathered from Dr. Mota's records that Greer's "vibration perception remained diminished but other findings were normal." The ALJ did not comment on Dr. Mota's finding that Greer had diminished strength in her lower extremities.

At step four, having decided that Greer could perform light work, the ALJ concluded that she could perform her past relevant work as an insurance agent and file clerk, as she had actually performed the work. (Because Greer was above the age of 60 at the onset of her alleged disability, in 2014, there had to be "very little, if any, vocational adjustment required in terms of tools, work processes, work settings, or the industry." 20 C.F.R. 404 Subpart P, App'x 2, § 202.00(f).) Thus, the ALJ continued, Greer was not disabled between December 2014, her alleged onset date, and June 2019, her date last insured. *See* 20 C.F.R. § 416.920(a)(4)(iv).

After the ALJ denied Greer's application, the Appeals Council denied her request for review. Then, the district court upheld the Acting Commissioner's decision, rejecting Greer's contention that the ALJ erred by relying on state agency medical consultants' opinions that did not account for Dr. Mota's subsequent notes. Citing *Stage v. Colvin*, 812 F.3d 1121 (7th Cir. 2016), the court determined that Dr. Mota had not made "significant, new, and potentially decisive findings" that could "reasonably change the reviewing physician's opinion." Rather, the court concluded, Dr. Mota's records showed that Greer was "in mild pain, needed a cushion for her feet, and had normal gai[t] and sensation"—issues that were "addressed in [Greer's] prior medical records."

On appeal, Greer argues that the ALJ failed to account for Dr. Mota's notes of diminished strength, and that a medical expert should have reviewed the podiatrist's findings. Greer points out that Dr. Mota's findings are in tension with state consultant Dr. Orfei's note that Greer's strength was intact. And because intact strength was a reason Dr. Orfei concluded that Greer could stand or walk for six hours per day, and thus perform light work, Greer argues that the ALJ erred in relying on this outdated opinion to deny benefits.

We review the ALJ's decision de novo, *Jarnutowski v. Kijakazi*, 48 F.4th 769, 773 (7th Cir. 2022), and ask whether substantial evidence supports the decision, *see* 42 U.S.C. § 405(g). Evidence is substantial if "a reasonable mind might accept [it] as adequate to support a conclusion." *Biestek v. Berryhill*, 139 S. Ct. 1148, 1154 (2019) (citation omitted).

Here, we cannot be sure that substantial evidence supports the ALJ's decision because he did not discuss the relevant development in Greer's medical records. Although "[a]n ALJ need not specifically address every piece of evidence," *Bakke v. Kijakazi*, 62 F.4th 1061, 1066 (7th Cir. 2023), the ALJ must build a "logical bridge" between the evidence and his conclusion, *Jarnutowski*, 48 F.4th at 773. Here, Dr. Orfei specifically noted in her opinion that Greer had "decreased touch and pain in [her] lower extremities, but intact strength." Dr. Orfei concluded that because Greer's "ambulation is not restricted," the functional capacity proposed by the other consulting physicians (standing and walking for most of the day) was "not unreasonable." Dr. Mota's repeated findings of diminished strength respond directly to that report; the ALJ therefore needed to address this new evidence in making his disability determination. At a minimum, the ALJ should have explained why he discounted the newer findings by Greer's treating physician in favor of the earlier opinion by the non-examining consultant. *See* 20 C.F.R. § 404.1520c(c)(3)(i)–(v) (the doctor's "[r]elationship with the claimant" factors into determining the persuasiveness of evidence, and an "examining relationship" is favored).

The Acting Commissioner contends that we should uphold the ALJ's ruling because Greer, who bears the burden of proof at step four, *Mandrell v. Kijakazi*, 25 F.4th 514, 516 (7th Cir. 2022), cannot point to any medical opinion in the record imposing stricter limits on her ability to stand and walk for six hours per day. Rather, the Acting Commissioner continues, each medical opinion in the record aligns with the ALJ's determination. In support, the Acting Commissioner cites *Gedatus v. Saul*, 994 F.3d 893, 904 (7th Cir. 2021), in which we concluded that substantial evidence supported the ALJ's decision because the claimant had offered "no opinion from any doctor to set … limits … greater than those the ALJ set."

Greer's burden, however, was to produce medical evidence, not an opinion. *See Scott v. Astrue*, 647 F.3d 734, 740 (7th Cir. 2011). In *Gedatus*, we noted that the ALJ had provided "solid, substantiated reasons for giving more weight to the state-agency physicians' opinions than to [the claimant's] claims about the limiting nature of her symptoms." *Gedatus*, 994 F.3d at 905; *see also id.* at 901 ("This is not a case where an ALJ ignored evidence contrary to his conclusion."). Greer's case is different; she provided

evidence by a treating physician that was never considered by the state-agency physicians and, more to the point, never mentioned by the ALJ.

Because the issue requiring a remand here is narrow, the ALJ need not conduct another full hearing or reopen the record except insofar as it is necessary to ensure a proper review of whether Dr. Mota's medical findings are consistent with Greer's ability to perform light work. In conducting that review, the ALJ must submit any "significant, new, and potentially decisive findings" to an expert rather than independently assess their medical significance. *Stage*, 812 F.3d at 1125.

Therefore, the judgment of the district court is VACATED, and the case is REMANDED with instructions that it be returned to the agency for limited further proceedings consistent with this order.