

[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 22-13659

Non-Argument Calendar

ESSIENEE JONES,

Plaintiff-Appellant,

versus

COMMISSIONER, SOCIAL SECURITY ADMINISTRATION,

Defendant-Appellee.

Appeal from the United States District Court
for the Middle District of Alabama
D.C. Docket No. 3:20-cv-00953-SMD

Before LAGOA, BRASHER, and ANDERSON, Circuit Judges.

PER CURIAM:

Essienee Jones appeals the district court’s affirmance of the Social Security Administration’s (“SSA”) denial of her claim for supplemental security income (“SSI”), under 42 U.S.C. § 1383(c)(3). Jones argues that the administrative law judge (“ALJ”) did not properly evaluate her Rheumatoid Arthritis (“RA”) under Listing 14.09. She also argues that the ALJ did not properly consider the nature of her severe impairments when the ALJ evaluated her residual functional capacity (“RFC”) and credibility.¹ For the reasons stated below, we affirm.

I.

In a social security case in which the Appeal Council has denied review, we review the ALJ’s decision as the Commissioner’s final decision. *Viverette v. Comm’r of Soc. Sec.*, 13 F.4th 1309, 1313 (11th Cir. 2021).

We review the ALJ’s decision to determine whether it is “supported by substantial evidence and based on proper legal standards.” *Winschel v. Comm’r of Soc. Sec.*, 631 F.3d 1176,

¹ Jones also argues that the magistrate judge improperly reevaluated the evidence when he determined that she was not disabled. However, “[o]ur review is the same as that of the district court, meaning we neither defer to nor consider any errors in the district court’s opinion.” *Henry v. Comm’r of Soc. Sec.*, 802 F.3d 1264, 1267 (11th Cir. 2015) (quotation marks and citations omitted). Accordingly, we do not reach Jones’s arguments on this issue.

22-13659

Opinion of the Court

3

1178 (11th Cir. 2011) (quotation marks omitted). We review *de novo* whether the ALJ applied the correct legal standards. *Viverette*, 13 F.4th at 1313-14. In reviewing for substantial evidence, “we may not decide the facts anew, reweigh the evidence, or substitute our judgment for” the ALJ’s. *Id.* at 1314 (quotation marks omitted). Substantial evidence is relevant evidence, greater than a scintilla, that “a reasonable person would accept as adequate to support a conclusion.” *Walker v. Soc. Sec. Admin., Comm’r*, 987 F.3d 1333, 1338 (11th Cir. 2021) (quotation marks omitted). However, a decision is not based on substantial evidence if it focuses on one aspect of the evidence while disregarding contrary evidence. *McCruiter v. Bowen*, 791 F.2d 1544, 1548 (11th Cir. 1986).

“Because a hearing before an ALJ is not an adversarial proceeding, the ALJ has a basic obligation to develop a full and fair record.” *Graham v. Apfel*, 129 F.3d 1420, 1422 (11th Cir. 1997). The ALJ must “scrupulously and conscientiously probe into, inquire of, and explore for all the relevant facts.” *Cowart v. Schweiker*, 662 F.2d 731, 735 (11th Cir. 1981) (quotation marks omitted). An ALJ fails to satisfy this duty not only when the judge fails to elicit facts relevant to the applicant’s claim at the hearing, but also when his decision omits key information, such as the weight accorded to testimony or the specific jobs that the applicant could perform. *Id.* Such procedural defects require a remand for further agency proceedings. *See id.* at 735-37.

Eligibility for SSI requires that the claimant be disabled. 42 U.S.C. § 1382a. A claimant is disabled if she cannot engage in

substantial gainful activity because of a medically determinable impairment that can be expected to result in death or that has lasted or can be expected to last for at least 12 months. 20 C.F.R. § 416.905(a).

To determine whether a claimant is disabled for purposes of SSI, the Social Security regulations mandate a five-step sequential evaluation process. 20 C.F.R. § 416.920(a)(4); *Viverette*, 13 F.4th at 1312. “These regulations place a very heavy burden on the claimant to demonstrate both a qualifying disability and an inability to perform past relevant work.” *Moore v. Barnhart*, 405 F.3d 1208, 1211 (11th Cir. 2005).

Under the first step, the claimant has the burden to show that she is not currently engaged in substantial gainful activity. *See* 20 C.F.R. § 416.920(a)(4)(i). At the second step, the claimant must show that she has a severe impairment. *See id.* § 416.920(a)(4)(ii). The regulations define a severe impairment as an “impairment or combination of impairments which significantly limit[] [the claimant’s] physical or mental ability to do basic work activities.” *Id.* § 416.920(c). If the ALJ determines that the claimant’s impairment is not severe, the disability claim is denied. *Bowen v. Yuckert*, 482 U.S. 137, 141 (1987). If the claimant has a severe impairment, the evaluation proceeds to the third step. *Id.*

Step three considers whether the claimant has shown that she has an impairment “that meets or equals a disability described in the Listing of Impairments [in Appendix 1 to Subpart P of Part 404 of the Social Security regulations], which describes

22-13659

Opinion of the Court

5

impairments that are considered severe enough to prevent a person from doing any gainful activity.” *Davis v. Shalala*, 985 F.2d 528, 532 (11th Cir. 1993); 20 C.F.R. § 416.920(a)(4)(iii). “To ‘meet’ a listing, a claimant must have a diagnosis included in the Listings and must provide medical reports documenting that the conditions meet the specific criteria of the listings and the duration requirement.” *Wilson v. Barnhart*, 284 F.3d 1219, 1224 (11th Cir. 2002). “If a claimant’s condition meets or equals the listed impairments, [s]he is conclusively presumed to be disabled and entitled to benefits.” *Bowen v. City of N.Y.*, 476 U.S. 467, 471 (1986). Only if a claimant does not meet a listing does the analysis proceed to step four. *Id.*

Listing 14.09 contains the requirements for inflammatory arthritis. 20 C.F.R. Pt. 404, Subpt. P, App. 1, § 14.09 (2019). In 2019, Listing 14.09A described that a claimant with inflammatory arthritis, as described in 14.00D6, had to demonstrate that they had persistent inflammation or deformity of:

1. One or more major peripheral weight-bearing joints resulting in the inability to ambulate effectively (as defined in 14.00C6); or
2. One or more major peripheral joints in each upper extremity resulting in the inability to perform fine and gross movements effectively (as defined in 14.00C7).

Id., § 14.09A (2019). Listing 14.00C8 defined “major peripheral joints” as that in Listing 1.00F, which defined “major peripheral joints,” as “the hip, knee, shoulder, elbow, wrist-hand, and ankle-foot, as opposed to other peripheral joints (e.g., the joints of the

hand or forefoot) or axial joints (*i.e.*, the joints of the spine).” *Id.*, § 1.00F (2019). Likewise, Listing 14.00C9 defined “persistent” as “a sign(s) or symptom(s) has continued over time.” *Id.*, § 14.00C9 (2019).

Listing 14.00D6, relating to inflammatory arthritis, described that:

Clinically, inflammation of major peripheral joints may be the dominant manifestation causing difficulties with ambulation or fine and gross movements; there may be joint pain, swelling, and tenderness. The arthritis may affect other joints, or cause less limitation in ambulation or the performance of fine and gross movements. However, in combination with extra-articular features, including constitutional symptoms or signs (severe fatigue, fever, malaise, involuntary weight loss), inflammatory arthritis may result in an extreme limitation.

Id., § 14.00D6 (2019). Also, Listing 14.00D6 explains that, in adults, “inflammatory arthritis involving peripheral joints may be associated with disorders such as” RA. *Id.*

In turn, Listing 14.00C6 stated that the claimant had to demonstrate that they had an “inability to ambulate effectively” as described in Listing 1.00B2b. *Id.*, § 14.00C6 (2019). Listing 1.00B2b explained that an:

Inability to ambulate effectively means an extreme limitation of the ability to walk; *i.e.*, an impairment(s) that interferes very seriously with the individual’s

22-13659

Opinion of the Court

7

ability to independently initiate, sustain, or complete activities. Ineffective ambulation is defined generally as having insufficient lower extremity functioning (see 1.00J) to permit independent ambulation without the use of a hand-held assistive device(s) that limits the functioning of both upper extremities.

Id., § 1.00B2b (2019). Listing 1.00J related to “orthotic, prosthetic, or assistive devices,” and, relating to hand-held assistive devices, proscribed that:

When an individual with an impairment involving a lower extremity or extremities uses a hand-held assistive device, such as a cane, crutch or walker, examination should be with and without the use of the assistive device unless contraindicated by the medical judgment of a physician who has treated or examined the individual. The individual’s ability to ambulate with and without the device provides information as to whether, or the extent to which, the individual is able to ambulate without assistance. The medical basis for the use of any assistive device (e.g., instability, weakness) should be documented. The requirement to use a hand-held assistive device may also impact on the individual’s functional capacity by virtue of the fact that one or both upper extremities are not available for such activities as lifting, carrying, pushing, and pulling.

Id., § 1.00J (2019).

Furthermore, Listing 14.00C7 stated that the claimant had to demonstrate that they had an “inability to perform fine and gross movements effectively” as described in Listing 1.00B2c. *Id.*, § 14.00C7 (2019). Listing 1.00B2c defined a claimant’s inability to perform fine and gross movements effectively as:

an extreme loss of function of both upper extremities; *i.e.*, an impairment(s) that interferes very seriously with the individual’s ability to independently initiate, sustain, or complete activities. To use their upper extremities effectively, individuals must be capable of sustaining such functions as reaching, pushing, pulling, grasping, and fingering to be able to carry out activities of daily living. Therefore, examples of inability to perform fine and gross movements effectively include, but are not limited to, the inability to prepare a simple meal and feed oneself, the inability to take care of personal hygiene, the inability to sort and handle papers or files, and the inability to place files in a file cabinet at or above waist level.

Id., § 1.00B2c (2019).

Alternatively, under Listing 14.09B, the claimant could demonstrate that they had “inflammation or deformity in one or more major peripheral joints” and:

1. Involvement of two or more organs/body systems with one of the organs/body systems involved to at least a moderate level of severity; and

22-13659

Opinion of the Court

9

2. At least two of the constitutional symptoms or signs (severe fatigue, fever, malaise, or involuntary weight loss).

Id., § 14.09B (2019). Listing 14.00C2 defined constitutional signs or symptoms as “severe fatigue, fever, malaise, or involuntary weight loss. *Severe fatigue* means a frequent sense of exhaustion that results in significantly reduced physical activity or mental function. *Malaise* means frequent feelings of illness, bodily discomfort, or lack of well-being that result in significantly reduced physical activity or mental function.” *Id.*, § 14.00C2 (2019) (emphasis in original).

As to Listing 14.09B, a claimant could demonstrate that they suffered from an impairment that was sufficiently severe to meet the Listing by showing “inflammatory arthritis that involves various combinations of complications of one or more major peripheral joints or other joints, such as inflammation or deformity, extra-articular features, repeated manifestations, and constitutional symptoms or signs. Extra-articular impairments may also meet listings in other body systems.” *Id.*, § 14.09(e)(ii) (2019). “Extra-articular features of inflammatory arthritis may involve any body system,” including “musculoskeletal (heel enthesopathy),” “cardiovascular, (aortic valve insufficiency, arrhythmias, coronary arteritis, myocarditis, pericarditis, Raynaud’s phenomenon, systemic vasculitis),” and “mental (cognitive dysfunction, poor memory).” *Id.* § 14.09(e)(iii)(2019).

When considering whether a claimant meets the impairments listed in Appendix 1, the ALJ must consider Appendix 1 but

need not “mechanically recite the evidence leading to her determination,” as “[t]here may be an implied finding that a claimant does not meet a listing.” *Hutchison v. Bowen*, 787 F.2d 1461, 1463 (11th Cir. 1986). Substantial evidence to support the finding and inference must be in the record. *Id.*

In *Hutchinson*, we explained that it was clear that the ALJ implicitly found that the claimant did not meet any of the impairments in Appendix 1 because he “was obviously familiar with the sequential evaluation process,” his decision included a statement of law recognizing that a finding of a listed impairment would require a determination of disability at step three, and yet he reached the fourth and fifth steps of the disability analysis. *Id.*

Finally, we will not address an argument that has not been raised in the district court. *Crawford v. Comm’r of Soc. Sec.*, 363 F.3d 1155, 1161 (11th Cir. 2004); *see also Stewart v. Dep’t of Health and Human Servs.*, 26 F.3d 115, 115-16 (11th Cir. 1994). Here, Jones failed to raise the issue of whether the ALJ applied the correct standard when finding that she did not meet Listing 14.09 in the district court. Accordingly, we do not address that argument here.

A claimant could satisfy Listing 14.09 either by satisfying the criteria of 14.09A or 14.09B. Jones challenges the ALJ’s findings under both. However, her challenge under 14.09A is limited to her limitations with respect to her weight-bearing joints and

22-13659

Opinion of the Court

11

ambulation. See Listing 14.09A(1)(quoted above).² As to Listing 14.09A(1), the ALJ's finding is supported by substantial evidence because Jones did not demonstrate that she needed to use a hand-held assistive device that limited the functioning of *both* of her upper extremities. See 20 C.F.R. Pt. 404, Subpt. P, App. 1, Listing 1.00B2b ("Ineffective ambulation is defined generally as having insufficient lower extremity functioning (see 1.00J) to permit independent ambulation without the use of a hand-held assistive device(s) that limits the functioning of *both* upper extremities.") (emphasis added).

Regarding Listing 14.09B (quoted above), Jones did not meet her burden of showing that her inflammation involved two or more organs or body systems because she has not provided any citations to law or authority or evidence that her depression and anxiety involved the central nervous system. Similarly, Jones did not demonstrate that her inflammatory arthritis affected her cardiovascular system because she did not demonstrate that she had a sufficient impairment from any of her cardiovascular symptoms, her medical records relating to her chest pain repeatedly did not reveal cardiological disease, and the ALJ did not find that her chest pain, tachycardia, or venous insufficiency were sufficient impairments. Finally, even if Jones sufficiently established that her inflammatory arthritis involved two or more body systems, the ALJ

² In other words, she does not challenge the ALJ's decision with respect to 14.09A(2) (quoted above) related to limitations in her upper extremity joints and her ability to perform fine and gross movements.

did not err when she found that Jones did not suffer from at least two of the constitutional signs or symptoms under Listing 14.09B because she repeatedly denied feelings of fatigue or malaise and did not demonstrate that she suffered involuntary weight loss or fever.

Accordingly, we affirm as to the first issue.

II.

If a claimant cannot meet or equal the criteria in one of the listings, the ALJ determines the claimant's RFC and proceeds to step four of the sequential analysis, at which she considers whether the claimant's RFC permits the claimant to perform her past relevant work. 20 C.F.R. § 416.920(a)(4). If the claimant can perform her past relevant work, she is not disabled, and if she cannot, the analysis proceeds to step five. *Id.* At step five, the burden shifts to the Commissioner to show that significant numbers of jobs exist in the national economy which the claimant can perform given, *inter alia*, her RFC. *Id.*

The ALJ determines “a claimant’s RFC by considering all relevant medical and other evidence.” *Buckwalter v. Acting Comm’r of Soc. Sec.*, 5 F.4th 1315, 1320 (11th Cir. 2021); 20 C.F.R. § 416.945(a)(3) In her RFC finding, the ALJ “must state with particularity the weight given to different medical opinions and the reasons therefor.” *Buckwalter*, 5 F.4th at 1320-21 (quoting *Winschel*, 631 F.3d at 1179).

When a claimant alleges that she has several impairments, the ALJ must “consider the impairments in combination and . . . determine whether the combined impairments render the claimant

22-13659

Opinion of the Court

13

disabled.” *Jones v. Dep’t of Health & Hum. Servs.*, 941 F.2d 1529, 1533 (11th Cir. 1991). However, “there is no rigid requirement that the ALJ specifically refer to every piece of evidence in [her] decision, so long as the ALJ’s decision . . . is not a broad rejection which is not enough to enable [the district court or this Court] to conclude that [the ALJ] considered her medical condition as a whole.” *Dyer v. Barnhart*, 395 F.3d 1206, 1211 (11th Cir. 2005) (quotation marks omitted, third and fourth alterations in original).

A three-part “pain standard” applies when a claimant attempts to establish disability through her testimony of pain or other subjective symptoms. *Wilson*, 284 F.3d at 1225. To meet the pain standard, the claimant must provide “(1) evidence of an underlying medical condition and either,” (2) objective medical evidence confirming the severity of the claimant’s alleged pain arising from that condition or (3) “that the objectively determined medical condition is of such a severity that it can be reasonably expected to give rise to the alleged pain.” *Holt v. Sullivan*, 921 F.2d 1221, 1223 (11th Cir. 1991); *see also Kelley v. Apfel*, 185 F.3d 1211, 1215 (11th Cir. 1999) (same). This standard “also applies to complaints of subjective conditions other than pain.” *Holt*, 921 F.2d at 1223. “The claimant’s subjective testimony supported by medical evidence that satisfies the standard is itself sufficient to support a finding of disability.” *Id.* “Indeed, in certain situations, pain alone can be disabling, even when its existence is unsupported by objective evidence.” *Foote v. Chater*, 67 F.3d 1553, 1561 (11th Cir. 1995); *see also Marbury v. Sullivan*, 957 F.2d 837, 839 (11th Cir. 1992) (“Pain

alone can be disabling, even when its existence is unsupported by objective evidence.”).

The ALJ must consider all the claimant’s symptoms, including pain, to “the extent to which [the claimant’s] symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence.” 20 C.F.R. § 416.929(a). Additionally, the ALJ considers all of the claimant’s “statements about [her] symptoms, such as pain, and any description [her] medical sources or nonmedical sources may provide about how the symptoms affect [her] activities of daily living and [her] ability to work.” *Id.* However, the claimant’s statements about her pain alone are not sufficient to establish that she is disabled, and the claimant must provide “objective medical evidence from an acceptable medical source that shows [that the claimant has] a medical impairment(s) which could reasonably be expected to produce the pain or other symptoms alleged,” and that could lead to a conclusion that the claimant is disabled. *Id.* Social Security Ruling (“SSR”) 16-3p requires “adjudicators to consider all of the evidence in an individual’s record when they evaluate the intensity and persistence of symptoms after they find that the individual has a medically determinable impairment(s) that could reasonably be expected to produce those symptoms.” SSR 16-3p, 81 Fed. Reg. 14166.

When evaluating a claimant’s subjective symptoms, the ALJ must consider such things as (1) the claimant’s daily activities; (2) the nature and intensity of pain and other symptoms;

22-13659

Opinion of the Court

15

(3) precipitating and aggravating factors; (4) effects of medications; and (5) treatment or measures taken by the claimant for relief of symptoms. *See* 20 C.F.R. § 416.929(c)(3). “If the ALJ discredits subjective testimony, [s]he must articulate explicit and adequate reasons for doing so. Failure to articulate the reasons for discrediting subjective testimony requires, as a matter of law, that the testimony be accepted as true.” *Wilson*, 284 F.3d at 1225 (citation omitted).

Here, substantial evidence in the record demonstrates that the ALJ considered all of Jones’s alleged impairments and subjective complaints of pain when she determined that Jones had an RFC to perform light work. Although Jones’s medical impairments could be reasonably expected to cause her symptoms, including pain, the ALJ was not convinced by Jones’s statements regarding the intensity, persistence, and limiting effects of her symptoms; the ALJ found that Jones’s statements in this regard were not entirely consistent with the medical evidence and other evidence in the record. We conclude that substantial evidence supports the ALJ’s determination.

Accordingly, we also affirm as to this issue.

AFFIRMED.