

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-1859

SHARON D. DELESLINE-MEGGETT,

Plaintiff – Appellant,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant – Appellee,

v.

SOCIAL SECURITY ADMINISTRATION RECORD; US ATTORNEY SOCIAL
SECURITY NOTICING,

Parties-in-Interest.

Appeal from the United States District Court for the District of South Carolina, at
Orangeburg. Kaymani Daniels West, Magistrate Judge. (5:20-cv-01411-KDW)

Argued: September 19, 2023

Decided: November 28, 2023

Before NIEMEYER, RICHARDSON, and RUSHING, Circuit Judges.

Affirmed by unpublished per curiam opinion.

ARGUED: Robertson H. Wendt, Jr., FINKEL LAW FIRM, LLC, North Charleston,
South Carolina, for Appellant. Erica Adams, SOCIAL SECURITY ADMINISTRATION,

Baltimore, Maryland, for Appellee. **ON BRIEF:** Sarah H. Bohr, BOHR & HARRINGTON, LLC, Atlantic Beach, Florida, for Appellant. Brian C. O'Donnell, Regional Chief Counsel, Victor Pane, Supervisory Attorney, Jordana Cooper, Senior Attorney, Office of the General Counsel, SOCIAL SECURITY ADMINISTRATION, Philadelphia, Pennsylvania; Corey F. Ellis, United States Attorney, Marshall Prince, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Sharon Delesline-Meggett applied for disability benefits from the Social Security Administration after suffering a stroke. An administrative law judge (ALJ) found that Delesline-Meggett was capable of performing her past work as a court clerk and so was not disabled. The Appeals Council denied review. Delesline-Meggett then commenced this action in the district court, and the magistrate judge, presiding with consent of the parties, affirmed the ALJ. Reviewing that decision de novo, we affirm.

We will uphold an ALJ's disability determination if the "ALJ has applied correct legal standards and the ALJ's factual findings are supported by substantial evidence." *Shinaberry v. Saul*, 952 F.3d 113, 120 (4th Cir. 2020) (internal quotation marks omitted); see 42 U.S.C. § 405(g). Substantial evidence is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Shinaberry*, 952 F.3d at 120 (quoting *Biestek v. Berryhill*, 139 S. Ct. 1148, 1154 (2019)).

Delesline-Meggett contends that the ALJ applied a legally erroneous framework to evaluate her residual functional capacity (RFC), but we find no reversible legal error. See 20 C.F.R. § 416.945(a)(1) (RFC "is the most [a claimant] can still do despite [her] limitations."). She claims the ALJ did not conduct a proper function-by-function analysis of how her impairments affect her ability to work and conflated the RFC assessment with a subjective symptom evaluation. See *Dowling v. Comm'r of Soc. Sec. Admin.*, 986 F.3d 377, 386–389 (4th Cir. 2021) (remanding based on these and related errors). This Court has "rejected a per se rule requiring remand when the ALJ does not perform an explicit function-by-function analysis." *Mascio v. Colvin*, 780 F.3d 632, 636 (4th Cir. 2015). Thus,

even accepting Delesline-Meggett's premise, remand is appropriate only where "inadequacies in the ALJ's analysis frustrate meaningful review," such as when an ALJ fails to assess a claimant's capacity to perform relevant functions or does not resolve material disputes in the record. *Id.* (internal quotation marks omitted). That is not the case here. The ALJ evaluated the evidence concerning Delesline-Meggett's relevant functions, including her ability to sit, stand, walk, see, communicate, follow instructions, and remember information. *See* 20 C.F.R. § 404.1545(b), (c), (d). The ALJ considered Delesline-Meggett's subjective symptoms, medical records, physical and psychological assessments, and expert opinions in determining her RFC. This case is unlike *Dowling*, where the ALJ not only failed to perform a function-by-function analysis but also failed to address a "critically relevant" function, namely, the claimant's ability to sit. 986 F.3d at 389. There is no corresponding failure here.

The ALJ's finding that Delesline-Meggett could return to her past work as a court clerk was supported by substantial evidence. Three groups of experts came to similar conclusions about the impact of her strokes. First, the stroke experts who treated her rated her strokes as a 1 out of 42, the mildest rating on the National Institutes of Health Stroke Scale. As the ALJ noted, they also repeatedly assigned Delesline-Meggett a 1 out of 6 on the Modified Rankin Scale, which means "no significant disability, despite symptoms, and able to perform all usual duties and activities." J.A. 15. Second, the agency experts who reviewed Delesline-Meggett's medical records agreed that she had no impairments preventing her from performing sedentary work. Third, the post-hearing consultative examiners requested by the ALJ found that Delesline-Meggett's vision was fine and that

mental health issues would not significantly impact her ability to concentrate and perform work-related tasks. The ALJ incorporated these findings into his RFC assessment and explained why he assigned them great weight. The ALJ also explained why he gave little weight to a contrary opinion in the record, noting that the doctor gave no reasons for his conclusion and did not identify functional limitations.

Delesline-Meggett's arguments to the contrary are unconvincing. She principally contends that the ALJ failed to reconcile the mathematical duties of the court clerk position with her post-hearing psychological examination, which placed her in the bottom ninth percentile for math ability and indicated she would have difficulty with tasks requiring "more than simple mathematics computation skills." J.A. 17. Delesline-Meggett relies on the Dictionary of Occupational Titles, which describes the court clerk position as generally performed in the national economy. But a claimant is not disabled if she can perform her past work *either* as generally required by employers in the national economy *or* "as [s]he performed it in the past." *Pass v. Chater*, 65 F.3d 1200, 1207 (4th Cir. 1995) (citing SSR 82-61, 1982 WL 31387 (Jan. 1, 1982)). The standard is disjunctive, and Delesline-Meggett identifies nothing in the record suggesting that her job, as actually performed, required complex mathematics. Indeed, before the agency Delesline-Meggett never suggested that she could not return to work because of difficulty performing the math required.

We also reject Delesline-Meggett's arguments about the limitations in her RFC. At an earlier step of the sequential disability evaluation process, the ALJ found mild limitations in understanding, remembering, or applying information and in concentrating, persisting, or maintaining pace. To the extent the ALJ was required to discuss these mild

limitations in determining the RFC, he did so adequately, and his decision to exclude them from the RFC was supported by substantial evidence. *Cf. Shinaberry*, 952 F.3d at 121 (rejecting “a categorical rule that requires an ALJ to always include moderate limitations in concentration, persistence, or pace as a specific limitation in the RFC”); *Sizemore v. Berryhill*, 878 F.3d 72, 81 (4th Cir. 2017) (concluding that substantial evidence supported not including moderate limitations in RFC). None of the experts found mental limitations preventing Delesline-Meggett from returning to work. And the ALJ detailed the findings of the post-hearing psychological examiner, who concluded that mental health issues would not significantly impact Delesline-Meggett’s ability to concentrate and perform work-related tasks. As for Delesline-Meggett’s dizziness, while the ALJ stated “there [was] no etiology found” for her subjective reports, he nevertheless included pertinent restrictions in her RFC, like limiting her to less than a full range of sedentary work with allowance of a cane to walk. J.A. 17.

Lastly, the record does not support Delesline-Meggett’s argument that the ALJ cherry-picked facts to support his conclusion while ignoring evidence that supports a disability finding. The ALJ accurately represented the record as a whole and did not mischaracterize or ignore material facts. We do not require the ALJ to refer specifically “to every piece of evidence in his decision.” *Reid v. Comm’r of Soc. Sec.*, 769 F.3d 861, 865 (4th Cir. 2014) (internal quotation marks omitted).

For these reasons, the judgment of the district court is

AFFIRMED.