

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-2133

TINA LAIL,

Plaintiff - Appellant,

v.

KILOLO KIJAKAZI, Acting Commissioner of Social Security,

Defendant - Appellee.

Appeal from the United States District Court for the Western District of North Carolina, at Asheville. David C. Keesler, Magistrate Judge. (1:20-cv-00091-DCK)

Submitted: May 12, 2022

Decided: May 27, 2022

Before MOTZ, RICHARDSON, and RUSHING, Circuit Judges.

Affirmed by unpublished per curiam opinion.

ON BRIEF: Derrick Kyle Arrowood, ARROWOOD AND HALL, PLLC, Raleigh, North Carolina, for Appellant. Dena J. King, United States Attorney, David N. Mervis, Special Assistant United States Attorney, Office of the General Counsel, SOCIAL SECURITY ADMINISTRATION, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Tina Lail appeals the district court’s order affirming the Commissioner of Social Security’s denial of her application for supplemental security income. On appeal, she asserts that the Administrative Law Judge (ALJ) improperly considered the evidence of Lail’s ability to walk and stand for lengthy periods of time and her carpal tunnel syndrome. We affirm.

We review de novo the district court’s decision to grant summary judgment.* *Thomas v. Berryhill*, 916 F.3d 307, 311 (4th Cir. 2019). We will affirm if the “ALJ has applied correct legal standards and the ALJ’s factual findings are supported by substantial evidence.” *Monroe v. Colvin*, 826 F.3d 176, 186 (4th Cir. 2016) (internal quotation marks omitted). “Substantial evidence is that which a reasonable mind might accept as adequate to support a conclusion. It consists of more than a mere scintilla of evidence but may be less than a preponderance.” *Pearson v. Colvin*, 810 F.3d 204, 207 (4th Cir. 2015) (citation and internal quotation marks omitted). This court will not “reweigh conflicting evidence, make credibility determinations, or substitute [its] judgment for that of the ALJ”; rather, “[w]here conflicting evidence allows reasonable minds to differ,” we defer to the Commissioner’s decision. *Hancock v. Astrue*, 667 F.3d 470, 472 (4th Cir. 2012) (brackets and internal quotation marks omitted).

In making a disability determination, the ALJ employs a five-step process, inquiring:

* The parties consented to have a magistrate judge decide the suit.

[A]t step one[,] whether the claimant has been working; at step two, whether the claimant's medical impairments meet the regulations' severity and duration requirements; at step three, whether the medical impairments meet or equal an impairment listed in the regulations; at step four, whether the claimant can perform her past work given the limitations caused by her medical impairments; and at step five, whether the claimant can perform other work.

Mascio v. Colvin, 780 F.3d 632, 634 (4th Cir. 2015). As relevant here, if, at step three, the ALJ finds that the claimant's impairments satisfy one of the regulations' impairments, then the claimant is deemed disabled; otherwise, the ALJ must determine the claimant's residual functional capacity ("RFC"). *Id.* at 635. In doing so, the ALJ "must first identify the individual's functional limitations or restrictions and assess his or her work-related abilities on a function-by-function basis, including the functions listed in the regulations." *Id.* at 636 (internal quotation marks omitted). Among the listed functions are "physical abilities, such as sitting, standing, walking, lifting, carrying, pushing, pulling, or other physical functions (including manipulative or postural functions, such as reaching, handling, stooping or crouching)." *Id.* at 636 n.5.

In addition, the RFC "assessment must include a narrative discussion describing how the evidence supports each conclusion, citing specific medical facts (e.g., laboratory findings) and nonmedical evidence (e.g., daily activities, observations)." *Id.* at 636 (internal quotation marks omitted). "In other words, the ALJ must both identify evidence that supports his conclusion and build an accurate and logical bridge from that evidence to his conclusion." *Woods v. Berryhill*, 888 F.3d 686, 694 (4th Cir. 2018) (brackets and internal quotation marks omitted); see *Thomas*, 916 F.3d at 311 ("[A] proper RFC analysis has three components: (1) evidence, (2) logical explanation, and (3) conclusion.").

However, failure to strictly comply with these requirements does not automatically necessitate remand. *Mascio*, 780 F.3d at 636. Rather, the driving consideration is whether the ALJ's analysis allows for meaningful judicial review. *Id.*

Here, the ALJ found that Lail suffered from several impairments that qualified as "severe" under the Commissioner's regulations—degenerative disc disease of the cervical and lumbar spine, lumbar radiculopathy, carpal tunnel syndrome, history of hepatitis C, obesity, depressive disorder, and panic disorder—but that those impairments did not preclude all work. Specifically, the ALJ determined that Lail retained the ability to perform a restricted range of light exertional and sedentary work.

Lail contends that the ALJ failed to consider that, beginning in May 2018, her condition deteriorated, resulting in increased limitations in standing and walking consistent with her testimony at the hearing. In determining that Lail could perform light work, the ALJ found that Lail could stand and walk for up to 6 hours out of an 8-hour workday. The ALJ determined that no further limitations on standing or walking were warranted because Lail typically had a normal gait, sensation, and strength.

In rejecting Lail's statements regarding the intensity and limiting effects of her symptoms, the ALJ cited to numerous medical records, showing normal or mild findings. Lail argues that, because her condition deteriorated beginning in May 2018, the evidence prior to that point in time was not directly relevant and that the post-May 2018 evidence showed an uneven gait and lack of muscle strength that would prevent light work. However, contrary to this argument, Lail's testimony did not aver that her symptoms or limitations had worsened beginning in May 2018. Moreover, while the ALJ noted that Lail

sought medical attention in 2018 for increased neck and back pain, the record does not indicate the comparison point.

Instead, the record reflects that Lail's complaints regarding her symptoms and limitations did not appreciably change after May 2018. Notably, Lail contended that her neck and back pain was disabling in 2016 when she filed for disability, and she stated at that time that she could only walk for five minutes and could not do house or yard work because her neck and back were seriously injured and hurt even when she was sleeping. In January 2017, Lail reported, during a consultative psychological examination, that she became unable to work in 2008 due to "Scoliosis, Degenerative Disc Disease, Pinched nerves, Bulging Discs," that she was unable to sit or stand for long periods of time, and that her neck and shoulders had "a lot of pain." (A.R. 619). In August 2017 and February 2018, Lail was assessed with chronic back pain and referred to pain management. Moreover, the ALJ noted that MRIs taken in 2014 and 2018 showed "few changes." (A.R. 24-25). Thus, the record contained substantial evidence that Lail's impairments and symptoms were stable and had not materially deteriorated directly prior to the hearing. As such, the ALJ appropriately considered all the evidence of record in determining whether Lail was limited in her abilities to walk and stand.

Furthermore, the record did not contain evidence regarding the underlying medical reason for Lail's altered gait in mid-to-late 2018. There was no evidence as to whether the underlying condition was related to her disc disease, whether it could be expected to improve, or whether further deterioration was expected. Importantly, Lail points to no evidence in the record that her abnormal gait altered her abilities to stand and walk. As

such, even accepting that Lail's condition had worsened and that her uneven gait was caused by increased pain related to her back condition, there was no medical evidence that she was no longer able to perform light work. Accordingly, the ALJ adequately considered the evidence and properly justified his finding that Lail was capable of light and sedentary work.

Next, Lail asserts that the ALJ improperly considered the evidence of Lail's carpal tunnel syndrome. Specifically, Lail contends that the ALJ's decision not to add any corresponding limitations to Lail's RFC was in direct contravention of the ALJ's ruling that Lail's carpal tunnel syndrome was a severe impairment.

Contrary to Lail's assertion, the ALJ's finding that Lail's carpal tunnel syndrome was a severe impairment at step two of the sequential evaluation does not contradict the ALJ's RFC which did not factor in specific limitations due to carpal tunnel syndrome. Step two of the sequential evaluation is a threshold question with a de minimis severity requirement. *See Bowen v. Yuckert*, 482 U.S. 137, 146-47 (1987) (holding that step two requires a "threshold showing of severity"); *Williams v. Bowen*, 844 F.2d 748, 751 (10th Cir. 1988) (finding that, at step two, claimant must "present[] medical evidence and make[] the de minimis showing of medical severity"). Moreover, the ALJ explicitly found that Lail's carpal tunnel syndrome, while a severe impairment, did not interfere with her ability to use her upper extremities effectively, as Lail retained full strength and could cook, drive, and do housework. In any event, contrary to Lail's assertion, the ALJ explicitly took into account Lail's carpal tunnel syndrome and limited Lail to light work which contained appropriate limits on carrying and lifting.

Lail relies on her testimony at the hearing that she experienced numbness in two fingers on each hand, with the right hand being worse than the left, and testing which showed mild carpal tunnel syndrome in the right wrist. However, Lail points to no evidence describing any limitations in manipulation or otherwise; notably, Lail did not testify that she had difficulty manipulating her hands or fingers, and no medical records include that conclusion. Further, at a medical appointment in March 2018, Lail denied having any joint pain or numbness/tingling. Accordingly, the ALJ's determination that Lail's carpal tunnel syndrome did not require additional limitations in her RFC was supported by substantial evidence.

Based on the foregoing, we affirm. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED