NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted January 25, 2023*
Decided March 16, 2023

Before

DIANE S. SYKES, *Chief Judge*

DIANE P. WOOD, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

No. 22-2090

SEMSA DZAFIC,
Plaintiff-Appellant,

v.

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

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

No. 21 C 1937

Jeffrey Cole,
Magistrate Judge.

O R D E R

Semsa Dzafic, who experiences back pain, depression, anxiety, and post-traumatic stress disorder ("PTSD"), challenges the denial of her application for disability insurance benefits. An administrative law judge ("ALJ") found her not disabled, and the district court concluded that substantial evidence supported the decision. Dzafic argues that the ALJ erred by failing to adequately articulate her

* We previously granted Dzafic's unopposed motion to waive oral argument. Thus, this appeal was submitted on the briefs and the record. FED. R. APP. P. 34(f).

reasoning at Step Three of the sequential evaluation process, discounting Dzafic's treating physicians' opinions, and incorrectly ascertaining Dzafic's residual functional capacity ("RFC"). Because the ALJ did not err, and substantial evidence supports the decision, we affirm.

I. BACKGROUND

A. Medical History

Dzafic, now 48, worked as a hotel housekeeper for Wyndham Hotel Management for many years. Dzafic's job was physically taxing, and she frequently lifted and carried up to 50 pounds. Dzafic repeatedly sought treatment for back pain between 2014 and 2016, following a 2010 back injury. Dzafic also sought treatment for a left wrist strain in January 2017, and imaging revealed early degenerative changes at the radiocarpal joint.

Dzafic stopped working on September 26, 2017, after she injured her back while making a bed at work. The following day, Dzafic described severe, radiating back pain to Dr. Abbas Al-Saraf, and an X-ray showed mild L4-5 disc space narrowing. Dr. Al-Saraf observed a normal gait but noted that Dzafic's right Achilles reflex was diminished. Dr. Al-Saraf administered a ketorolac injection, prescribed a course of physical therapy, and advised Dzafic that she could return to work the next day, with modified activity restrictions. Dr. Al-Saraf saw Dzafic again two days later and noted a positive straight-leg raising test. He concluded, however, that Dzafic seemed better and could return to modified work. In early October 2017, Dzafic had another positive straight-leg test, but Dr. Al-Saraf noted improvement and a normal gait. On examination, a week later, Dr. Al-Saraf noted that Dzafic walked slowly and bent forward, but he again concluded that Dzafic could return to work.

In November 2017, Dzafic was seen by pain management specialist, Dr. Sajjad Murtaza. Dr. Murtaza noted that Dzafic walked with an antalgic gait, had a positive straight-leg test on the right side, and showed plantar flexion weakness of the right compared to the left. Dr. Murtaza determined that Dzafic met the criteria for lumbar radiculopathy, but made no changes to her work restrictions. A subsequent MRI showed a mild disc bulge at L3-L4, hypertrophy, a significant amount of facet arthrosis, a more pronounced disc bulge with an annular tear at L4-5, and transitional vertebrae at L5-S1. Dr. Murtaza ordered medial branch blocks (injections of local anesthetic) at L3-4 and L4-5 and noted that Dzafic could work light duty for the time being.

Dr. Murtaza administered the medial branch blocks in January 2018, and in February, Dzafic reported 70% relief, no radiating pain, and a significant reduction in

back pain. She no longer walked with antalgic gait. Dr. Murtaza opined that Dzafic would "do very well" moving forward and advised returning to work with restrictions, including no lifting over 10 pounds, but Dzafic's employer did not accept the restrictions.

Dzafic completed physical therapy in late February 2018. She demonstrated a functional range of motion and strength. She stated that she was performing at her prior level, could walk for 40 minutes without resting, and felt ready to return to work. In March 2018, her gait was non-antalgic, and she had a negative bilateral straight-leg test.

In April 2018, spine surgeon, Dr. Frank M. Phillips, conducted an independent medical evaluation of Dzafic for Liberty Mutual Insurance Company. During this evaluation, Dzafic described her leg pain as completely resolved, and Dr. Phillips noted that Dzafic was healthy, save for back pain which Dzafic again described as constant. Dr. Phillips noted Dzafic's gait was antalgic but wrote that she was able to "heel and toe walk." Dr. Phillips opined that Dzafic could temporarily do light work involving lifting up to 15 pounds and that she could go back to regular duty in a month.

That same month, Dzafic also saw Dr. Martin Herman, a neurosurgeon, and described her radiculopathy as unresolved. Dr. Herman disagreed with Dr. Phillips regarding Dzafic's capacity to return to work full duty in a month and stated that she should have a microlumbar discectomy. After a second exam in May 2018, Dr. Herman's recommendation was unchanged.

Dzafic also saw Dr. Leonard D. Elkun, a psychiatrist, who sent Dzafic's counsel a letter in August 2020 explaining that he had been treating Dzafic since July 2018. There are, however, no treatment notes in the record. In the letter, Dr. Elkun states that Dzafic suffers with depression, anxiety, and post-traumatic stress disorder. Dr. Elkun opined that Dzafic was "cognitively reasonably intact" but "totally disabled from returning to work of any kind at this time or for the foreseeable future." (Administrative Record, "A.R.," at 757).

B. The ALJ's Decision

In October 2018, Dzafic filed a Title II application for a period of disability and disability insurance benefits on account of back pain, depression, anxiety, chronic pain, insomnia, and memory loss. Dzafic's claim was initially denied in February 2019 and again on reconsideration in September 2019. The two state agency medical consultants who reviewed her file in 2019—one at the initial stage and one on reconsideration—each opined that Dzafic could perform light work with postural limitations.

At the disability hearing in August 2020, Dzafic testified about her work history, medical history, and daily activities. She explained that she could walk for about 15 minutes, stand for 10 minutes, and sit for 20 to 30 minutes. A vocational expert testified that Dzafic's work as a hotel housekeeper was heavy as performed but, per the Dictionary of Occupational Titles, is light work as typically performed. The expert opined that a hypothetical claimant with certain postural and mental limitations posited by the ALJ could do the job. She further testified that there are sufficient numbers of unskilled, sedentary jobs in the national economy that someone with these postural limitations could perform, but not if that person needed to get up from a seated position every 20 minutes.

The ALJ denied Dzafic's application for disability benefits. Applying the requisite five-step analysis, *see* 20 C.F.R. § 404.1520(a)(4), the ALJ determined that Dzafic had not engaged in substantial gainful activity during the relevant period (Step One); her lumbar degenerative-disc disease, depression, post-traumatic stress disorder, and anxiety were severe impairments (Step Two); and her lumbar degenerative disc disease did not meet or equal the criteria for disabling spinal disorders in Listing 1.04 (Step Three). Considering all of Dzafic's impairments, the ALJ found that Dzafic retained the RFC to perform light work with the following restrictions: she could never climb ladders, ropes, or scaffolds; she could occasionally climb ramps and stairs, stoop, kneel, crouch, and crawl; she could understand, remember, and carry out simple, routine, and repetitive instructions; she could use judgment limited to simple work-related decisions; and she could occasionally interact with supervisors, coworkers, and the general public. The ALJ concluded that Dzafic could continue to work as a housekeeper, as that job is typically performed (Step Four), so the evaluation did not proceed to Step Five. *See Getch v. Astrue*, 539 F.3d 473, 482 (7th Cir. 2008).

The Appeals Council denied Dzafic's request for review, and she proceeded to judicial review. A magistrate judge, presiding with the parties' consent under 28 U.S.C. § 636(c), upheld the ALJ's decision.

II. ANALYSIS

We review the ALJ's decision to ensure that it is supported by substantial evidence. *Surprise v. Saul*, 968 F.3d 658, 661 (7th Cir. 2020). Substantial evidence is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Biestek v. Berryhill*, 139 S. Ct. 1148, 1154 (2019) (citation omitted). Dzafic raises four arguments on appeal. She claims that: (1) the ALJ failed to support her determination that Dzafic did not meet listing 1.04; (2) the ALJ improperly discounted the opinions of Dzafic's treating physicians; (3) the ALJ failed to account for Dzafic's

hand and wrist impairments in the RFC; and (4) the district court incorrectly indicated that no physician in the record had characterized Dzafic as disabled.

A.

Dzafic first argues that the ALJ erred at Step Three by providing insufficient reasons why Dzafic did not meet or equal Listing 1.04. At the time of the ALJ's decision, Listing 1.04 applied to disorders of the spine resulting in compromise of a nerve root or the spinal cord, with one of:

> A. Evidence of nerve root compression characterized by neuro-anatomic distribution of pain, limitation of motion of the spine, motor loss (atrophy with associated muscle weakness or muscle weakness) accompanied by sensory or reflex loss and, if there is involvement of the lower back, positive straight-leg raising test (sitting and supine); or
>
> B. Spinal arachnoiditis . . .; or
>
> C. Lumbar spinal stenosis resulting in pseudoclaudication, established by findings on appropriate medically acceptable imaging, manifested by chronic nonradicular pain and weakness, and resulting in inability to ambulate effectively, as defined in 1.00B2b.

20 C.F.R. Pt. 404, Subpt. P, App. 1, § 1.04 (effective May 21, 2020 to April 1, 2021). Section 1.00(B)(2)(b)(1) defines the inability to ambulate effectively as "an extreme limitation of the ability to walk" that precludes walking without a handheld assistive device that limits the functioning of both arms. *Id.* § 1.00.

To support her decision that Dzafic did not meet the listing, the ALJ had to "offer more than a perfunctory analysis." *Jeske v. Saul*, 955 F.3d 583, 588–90 (7th Cir. 2020) (citation omitted). The ALJ offered such an analysis by citing evidence relevant to each subcategory:

> Listing 1.04 was not met because the record did not show that the claimant experienced muscle atrophy, motor/strength loss, sensation loss or reflex loss. In addition, the record did not show the claimant had spinal arachnoiditis. Finally, the record did not show the claimant experienced an inability to ambulate effectively.

(A.R. 16) (citations omitted). The ALJ provided further support for her Step Three finding in the RFC analysis. *See Zellweger v. Saul*, 984 F.3d 1251, 1255 (7th Cir. 2021)

(when examining ALJ's determination whether a claimant meets a listing, court can look to medical evidence discussed at other steps). For example, the ALJ noted that although Dzafic had an antalgic gait at times, she could heel-toe walk in April 2018; her radicular symptoms were noted as being resolved that month; she did not use an assistive device; she had normal sensation, strength, reflexes, and gait in numerous examinations; and she could ambulate effectively.

First, Dzafic alleges that the ALJ's analysis of subpart A failed to account for instances in the medical record when Dzafic was observed to have decreased flexion and range of motion in the spine, a diminished Achilles reflex, and plantar flexion weakness on the right side. For example, Dzafic points to a single mention in the record of her right Achilles reflex being diminished as evidence of motor loss accompanied by reflex loss. This notation, however, is from September 27, 2017, soon after Dzafic was injured. In the RFC assessment, the ALJ observed that, although Dzafic's strength, reflexes, and range of motion were limited at times, her condition generally improved during subsequent examinations.

To meet a listing, a claimant must show that she has satisfied, or can be expected to satisfy, the listing's criteria for at least twelve months. 20 C.F.R. § 416.925(c)(4). While a claimant need not produce evidence showing that each symptom was present at precisely the same time, she must present medical findings sufficient to establish that all of the listing's criteria were, or could be expected to be, present together over a continuous twelve-month period. *See, e.g., Massaglia v. Saul*, 805 F. App'x. 406, 410 (7th Cir. 2020) (ALJ properly found claimant did not meet Listing 1.04 where the record lacked evidence of nerve root compression for twelve months). Because Dzafic does not contest the ALJ's finding that her spinal condition symptoms—namely, her diminished Achilles reflex—had improved, she has failed to show that the ALJ's assessment of Listing 1.04(A) was unsupported.

Dzafic next argues that her ability to ambulate was "clearly affected" by her back pain. While that may be true, it is insufficient to qualify under Listing 1.04(C), which requires a claimant to show that she is unable to ambulate effectively. 20 C.F.R. § 404 Subpt. P., App. 1, § 1.00(B)(2)(b)(1). Dzafic does not allege that she required an assistive device, so she could not meet the requirements of Listing 1.04(C).

Finally, Dzafic argues that even if she did not meet the requirements of Listing 1.04, the ALJ should have obtained an expert opinion regarding whether she medically equaled a listing. An ALJ is only required to seek an expert opinion on equivalency, however, when she believes the evidence reasonably supports a finding that the impairment medically equals a listing. *Wilder v. Kijakazi*, 22 F.4th 644, 653 (7th Cir. 2022). Here, the ALJ's finding that Dzafic could perform light work, explained in the RFC

analysis, indicates that she did not believe Dzafic's impairment equaled the criteria for presumptive disability under the listings. Thus, she was not required to seek an expert opinion on the matter, nor was she not required to separately discuss equivalence. *Deloney v. Saul*, 840 Fed. Appx. 1, 4 (7th Cir. 2020).

Because the ALJ reasonably found that at least one requirement of each 1.04 subpart was not met and because "[a]n impairment that manifests only some of [a listing's] criteria, no matter how severely, does not qualify," *Sullivan v. Zebley*, 493 U.S. 521, 532 (1990), the ALJ's step-three reasoning, while succinct, was sufficient.

B.

Dzafic next argues that the ALJ should have deferred to her treating physicians' opinions instead of relying on the views of state agency consultants. This argument, however, relies on outdated regulations. Under the revised regulations, which apply to claims, like Dzafic's, filed after March 27, 2017, the ALJ no longer gives "specific evidentiary weight, including controlling weight, to any medical opinion(s) . . . including those from [the claimant's own] medical sources." 20 C.F.R. § 404.1520c(a). Instead, the most important factors in evaluating any doctor's opinion are supportability and consistency. 20 C.F.R. § 404.1520c(a)–(c); *Albert v. Kijakazi*, 34 F.4th 611, 614 (7th Cir. 2022).

Dzafic's raises other arguments regarding the ALJ's assessment of her treating physicians' opinions, but they amount only to an invitation to reweigh the evidence in her favor, something this Court cannot do. *L.D.R. v. Berryhill*, 920 F.3d 1146, 1152 (7th Cir. 2019). For example, Dzafic suggests that the ALJ should have credited Dr. Elkun's opinion that she was "totally disabled" because it was consistent with Dr. Kelly's findings. However, the ALJ assessed Dr. Kelly's opinion – particularly her finding that Dzafic could manage her own funds – and found it to be more consistent with the state agency psychological consultant's view that Dzafic could work with certain mental restrictions. The ALJ also discredited Dr. Elkun's opinion as inconsistent with medical records (including Dr. Kelly's), which described Dzafic as cooperative, alert, and oriented. This finding was reasonable, and Dzafic does not argue otherwise.

The ALJ in this case addressed each treating physician's opinion and explained the weight she assigned to it with citations to the record. While Dzafic contends that these physicians' findings should have been afforded more deference, she fails to contradict the reasoning that underpinned the ALJ's decision to discount them. Just as an ALJ may not cherry-pick evidence that supports her conclusion, *Denton v. Astrue*, 596 F.3d 419, 425 (7th Cir. 2010), claimants cannot simply point to evidence the ALJ considered and rejected and ask this court to infer greater limitations from it. Instead,

they must engage with the ALJ's analysis and show why it was either illogical or unsupported. Dzafic does neither.

C.

Turning to the RFC assessment, Dzafic first contends that the ALJ failed to consider the fact that Dzafic unsuccessfully attempted to return to work in 2019. Here, the ALJ explicitly acknowledged that Dzafic received $100 from Wyndham Hotel Management in 2019. There is no evidence, however, that supports the notation that this payment was the result of Dzafic's failed attempt to return to work. In light of Dzafic's unequivocal testimony that she did not do "any work, anywhere" after her September 2017 injury, the ALJ was not required to delve further into the circumstances of this payment.

Dzafic also argues that the ALJ failed to account for limitations stemming from her hand and wrist impairments (dermatitis and a wrist sprain). Contrary to Dzafic's assertion, however, the ALJ did discuss Dzafic's wrist impairment in the RFC assessment. She noted that wrist pain was mentioned in one of Dzafic's off-work notices, but found these notices to be inconsistent with the medical evidence and, therefore, unpersuasive. The ALJ further opined that these notices seemed to describe only temporary restrictions. Indeed, although Dzafic sprained her wrist on January 16, 2017, Dr. Al-Saraf cleared her to return to normal work less than a month later. When cleared for work, Dzafic reported only a "very occasional mild ache with heavy lifting." (R. 385). Here, the ALJ reasonably concluded that the temporary affliction from January 2017 did not require work restrictions because Dzafic had returned to full work activity by February 2017. Therefore, the ALJ's decision not to include hand and wrist limitations rested on substantial evidence.

Dzafic's assertion that her dermatitis seriously limited her ability to do fine and gross motor movement is similarly unfounded. Although she reported skin irritation on several occasions, it apparently improved with treatment and caused no functional limitations. It is well-established that an ALJ need not discuss every piece of evidence in the record, so long as she does not ignore "an entire line of evidence that supports a finding of disability." *Jones v. Astrue*, 623 F.3d 1155, 1162 (7th Cir. 2010). Because Dzafic presented no evidence that her dermatitis caused any functional limitations, the ALJ was not required to spend time assessing it.

D.

Finally, Dzafic argues that the magistrate judge erred in stating that no doctor found her to be disabled. Recognizing that one of Dzafic's treating physicians—Dr.

Elkun—opined that Dzafic was, as of August 2020 and "for the foreseeable future," "totally disabled," the magistrate judge's assessment was in error. Because we review the ALJ's decision directly, without deferring to the district court, *Jeske*, 955 F.3d at 587, this errant remark by the magistrate judge has no bearing on our decision.

AFFIRMED