NONPRECEDENTIAL DISPOSITION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 May 26, 2023*
Decided June 21, 2023

Before

ILANA DIAMOND ROVNER, *Circuit Judge*

DAVID F. HAMILTON, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

No. 22-2746

LARRY D. RICHARDSON, JR.,
Plaintiff-Appellant,

v.

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

Appeal from the United States District Court for the Southern District of Indiana, Evansville Division.

No. 3:21-cv-00093-RLY-MPB

Richard L. Young,
Judge.

O R D E R

Larry Richardson challenges the denial of his application for disability insurance benefits under the Social Security Act. He applied for benefits after struggling with headaches, dizziness, and nausea. An administrative law judge found that Richardson could still perform a significant number of jobs available in the national economy. The

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

district court upheld this decision. Because substantial evidence supports the ALJ's ruling, we affirm.

In November 2016, Richardson went to the hospital reporting dizziness, headaches, and nausea. At the hospital, the physicians noted that he had "stroke symptoms," but test results showed no evidence of a stroke. He was diagnosed with a vertebral dissection—a tear in an artery near his neck. In making this assessment, staff noted that Richardson had previously been treated by a chiropractor to address neck stiffness resulting from a car accident. The next day Richardson reported feeling "completely back to normal," and the hospital released him. In December, he was admitted to the hospital again, complaining of "worsening dizziness." Staff released him with instructions to follow up with a neurologist.

Over the next four years, Richardson met with multiple doctors, including neurologists, to diagnose his continuing headaches and dizziness. Specialists generally reported normal neurological examinations and agreed with the dissection diagnosis; some identified post-concussion syndrome as a cause of the symptoms. At neurological evaluations in 2019 and 2020, doctors reported normal muscle strength and concentration levels, but an abnormal gait. An optometrist also diagnosed Richardson with peripheral vision loss.

The doctors largely suggested conservative treatment options, including medication and physical therapy. Richardson reported that his headaches improved when he closed his eyes and an emergency-room doctor once, in 2017, recommended for relief that he "[lie] flat wherever he is to try to allow this to pass." One neurologist suggested that applying for disability would be "reasonable," and Richardson's primary care physician opined that Richardson could not work.

While seeking treatment, Richardson applied for disability insurance benefits, contending he had been disabled since December 2016. His application was initially denied. The ALJ upheld that denial, finding that although Richardson had several severe impairments, none rendered him presumptively disabled; Richardson could perform light work, with some limitations; and a significant number of jobs were available to him in the national economy. The Appeals Council, however, remanded Richardson's case, finding that the ALJ had not adequately considered certain medical records, including the diagnosis of post-concussion syndrome, reports of abnormal gait, reports of visual impairments, and a potential stroke diagnosis.

The ALJ conducted another hearing, at which Richardson testified that his headaches and dizzy spells caused him to nap for 5 or 6 hours each day, but the ALJ again found that Richardson was not disabled during the relevant period. *See* 20 C.F.R. § 404.1520. The ALJ determined that Richardson had not engaged in substantial gainful activity during the relevant period (step one); that Richardson had several severe impairments, including vertebral artery dissection, post-concussion syndrome, and migraine disorder, as well as other impairments, including stroke syndrome, vertigo, and visual impairments, that were not severe (step two); that these impairments did not render Richardson presumptively disabled (step three); that, despite Richardson's reports about frequent napping, he had the residual functional capacity for a range of light work with some limitations (step four); and that a significant number of jobs existed that Richardson could perform (step five). This time, the Appeals Council denied review.

Richardson then sought judicial review under 42 U.S.C. § 405(g). A magistrate judge recommended affirming the ALJ's analysis, *see* 28 U.S.C. § 636(b)(1)(B), on grounds that the medical evidence supported the ALJ's findings, that the ALJ properly considered whether Richardson's severe impairments rendered him presumptively disabled, and that nothing in the record suggested that the ALJ exhibited bias, as Richardson had alleged, based on prior adverse rulings. Richardson objected to the magistrate judge's report, asking the district judge to consider bias on the part of the magistrate judge and the ALJ. The district judge declined to do so and adopted the magistrate judge's report and recommendation. Richardson now appeals to this court.

Richardson argues, first, that the ALJ erred in determining his residual functional capacity of light work. Richardson disputes the ALJ's finding that "[n]o medical source has opined that [he] needs to lie down to relieve his symptoms." He points to the emergency-room doctor's suggestion in 2017 to lie flat whenever he felt dizziness coming on. Further, Richardson maintains that his need for frequent naps makes even light work unavailable to him. And Richardson points to other doctors' suggestions that he seek disability benefits as evidence that he could not perform even light work.

Substantial evidence supports the ALJ's reasonable conclusion that Richardson was capable of light work with some limitations. *See Biestek v. Berryhill*, 139 S. Ct. 1148, 1154 (2019). The emergency-room comment is not a medical opinion that Richardson needed to nap, frequently or otherwise, to relieve his symptoms; the doctor found only normal test results and offered an option for relief. The ALJ also was not required to

accept medical opinions about Richardson's ability to work. *See* 20 C.F.R. § 404.1520b(c)(3)(i).

Richardson next argues that the ALJ overlooked several of his impairments, including the post-concussion syndrome, possible stroke, and vision problems that the Appeals Council highlighted in its remand order. But the only ruling before us is the ALJ's second decision—the final decision in the case, *see* 20 C.F.R. § 404.981—and in it the ALJ thoroughly addressed the conditions Richardson identifies. Namely, the ALJ identified post-concussion syndrome as a severe impairment and recognized Richardson's history of stroke syndrome and visual impairments. And the ALJ properly accounted for all the impairments (severe or otherwise) in assessing Richardson's residual functional capacity. *See Ray v. Berryhill*, 915 F.3d 486, 492 (7th Cir. 2019).

Richardson also argues that the ALJ erred at step three by failing to consider whether he was presumptively disabled based on his post-concussion syndrome. At step three, the ALJ considers whether an impairment meets or equals one of those listed in the regulations. *See* 20 C.F.R. Part 404, Subpart P, App'x 1. According to Richardson, the ALJ should have considered whether his post-concussion syndrome met or equaled a traumatic brain injury, listing 11.18. But during the agency proceedings, neither Richardson nor his counsel referred to listing 11.18, and requiring ALJs to address every possible listing is not reasonable. *See Wilder v. Kijakazi*, 22 F.4th 644, 652 (7th Cir. 2022). In any event, Richardson does not develop any argument showing, as is his burden, that his post-concussion syndrome met listing 11.18. *See id.* at 651–52.

Finally, Richardson argues that the magistrate judge and ALJ were biased against him, as reflected by prior adverse rulings. But adverse rulings, based on the record of the case, are not evidence of bias. *See Liteky v. United States*, 510 U.S. 540, 555 (1994).

We have considered Richardson's other arguments, and none merits further discussion.

AFFIRMED