

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 09-1571

Audray Rhinehart,

Appellant,

v.

Michael J. Astrue, Commissioner of
Social Security,

Appellee.

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Appeal from the United States
District Court for the
Eastern District of Missouri.

[UNPUBLISHED]

Submitted: September 24, 2009

Filed: October 19, 2009

Before LOKEN, Chief Judge, WOLLMAN and SHEPHERD, Circuit Judges.

PER CURIAM.

This is an appeal from a denial of social security disability benefits for the appellant, Audray Rhinehart. Rhinehart alleged disability since May 17, 1996, resulting from hepatitis C, back strain, hernia, and right wrist pain. On February 12, 2004, Rhinehart filed for a Period of Disability and Disability Insurance Benefits, which were denied. Rhinehart requested a hearing before an Administrative Law Judge (ALJ), which was held on March 7, 2006. The record before the ALJ revealed that Rhinehart had received intermittent treatment for hepatitis C since 1994, with mixed results. The record also revealed that although Rhinehart had not engaged in

substantial gainful activity since 2002, she did engage in a variety of daily activities that were inconsistent with her claim of disability. Following the hearing, the ALJ determined that: (1) Rhinehart's claims of disabling symptoms precluding all substantial gainful activity were not credible and were inconsistent with the evidence presented, (2) her treating physician's opinion that Rhinehart could stand or walk only four hours per eight-hour workday and would miss more than four work days per month due to hepatitis C was inconsistent with his own treatment record and the evidence as a whole, (3) Rhinehart's failure to take strong pain relief medication and her failure to seek regular and sustained treatment for her back strain, hepatitis C, and depression were inconsistent with her claim of disability, (4) Rhinehart has the residual function capacity to perform a wide range of sedentary work, and such work exists in the state of Missouri in sufficient number, and (5) considering the medical evidence and the testimony of the vocational expert, Rhinehart is not disabled. Accordingly, the ALJ denied Rhinehart's request for a Period of Disability and Disability Insurance Benefits. Rhinehart requested review by the Appeals Council, which was denied.

Rhinehart commenced this action under 42 U.S.C. § 405(g) in the district court,¹ which affirmed the ALJ's decision. In its thorough decision, the court held that: (1) the ALJ's decision was supported by substantial evidence on the record as a whole, (2) the ALJ properly assessed Rhinehart's credibility regarding her subjective complaints under Polaski v. Heckler, 739 F.2d 1320 (8th Cir. 1984), and (3) the testimony of the vocational expert constituted substantial evidence upon which the ALJ could base his decision. Rhinehart then filed this appeal.

¹The Honorable Stephen N. Limbaugh, Sr., United States District Judge for the Eastern District of Missouri, now retired, adopting the Report and Recommendation of the Honorable Terry I. Adelman, United States Magistrate Judge for the Eastern District of Missouri.

Having carefully reviewed the record and briefs, we find that the Commissioner's final decision is supported by substantial evidence on the record as a whole. See Harris v. Barnhart, 356 F.3d 926, 928 (8th Cir. 2004) (discussing standard of review); Kelley v. Barnhart, 372 F.3d 958, 960 (8th Cir. 2004) (same). Accordingly, as an opinion would have no precedential value, the judgment is affirmed. See 8th Cir. R. 47B.
