

United States Court of Appeals
For the Eighth Circuit

No. 20-1003

Cyrus Sarvestaney,

Plaintiff - Appellant,

v.

Andrew Saul, Commissioner of Social Security Administration,

Defendant - Appellee.

Appeal from United States District Court
for the Southern District of Iowa - Davenport

Submitted: January 28, 2021

Filed: February 17, 2021

[Unpublished]

Before COLLOTON, GRUENDER, and SHEPHERD, Circuit Judges.

PER CURIAM.

Cyrus Sarvestaney appeals an order of the district court¹ affirming the denial of supplemental security income. On de novo review of the court's judgment, we

¹The Honorable Charles R. Wolle, United States District Judge for the Southern District of Iowa.

agree that substantial evidence in the record as a whole supports the adverse decision. *See Nash v. Comm’r, Soc. Sec. Admin.*, 907 F.3d 1086, 1089 (8th Cir. 2018). Specifically, substantial evidence supported the ALJ’s determination regarding Sarvestaney’s residual functional capacity, as it was based upon the medical and opinion evidence, his treatment history, his credible symptoms, and his daily activities. *See Despain v. Berryhill*, 926 F.3d 1024, 1028-29 (8th Cir. 2019). Substantial evidence also supported the ALJ’s finding that Sarvestaney was not disabled, as the hypothetical question posed to the vocational expert included the limitations set forth in the residual functional capacity. *See Martise v. Astrue*, 641 F.3d 909, 927 (8th Cir. 2011). Sarvestaney offered no evidence to support his allegations of misconduct or bias by the ALJ, so cannot overcome the presumption of impartiality, and the district court’s adverse ruling does not establish that it was biased. *See Liteky v. United States*, 510 U.S. 540, 555 (1994); *Perkins v. Astrue*, 648 F.3d 892, 902-03 (8th Cir. 2011). There was no abuse of discretion in the district court’s denial of Sarvestaney’s motion for appointment of counsel, as he had no constitutional or statutory right to counsel. *See Patterson v. Kelley*, 902 F.3d 845, 849-50 (8th Cir. 2018). Sarvestaney’s motion for expedited review is denied as moot.

The judgment is affirmed.
