

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION

TRACY D. FLYNN

PLAINTIFF

v.

Case No. 3:11-CV-03053

MICHAEL J. ASTRUE, Commissioner
Social Security Administration

DEFENDANT

J U D G M E N T

Currently before the Court is the Report and Recommendation (Doc. 11) filed on September 5, 2012, by the Honorable Erin L. Setser, United States Magistrate Judge for the Western District of Arkansas. Also before the Court are Plaintiff's objections (Doc. 12).

Plaintiff objects to the Magistrate's findings concerning the Administrative Law Judge's ("ALJ") determination of her residual functional capacity ("RFC"), maintaining that the ALJ's findings relative to Plaintiff's RFC are not supported by substantial evidence. Plaintiff argues the ALJ did not properly consider whether Plaintiff's alleged pain was intense enough to cause functional limitations. Further, Plaintiff maintains that the Magistrate failed to consider objective findings that Plaintiff has a severe impairment. After reviewing the record *de novo* as to Plaintiff's objections, the Court finds the Magistrate's reasoning to be sound and further finds that Plaintiff's objections offer neither law nor fact requiring departure from the Magistrates' findings. As stated by the Magistrate, it does not appear that Plaintiff was prescribed any medications for pain, and there was a period of four years in which Plaintiff claimed to have been experiencing severe pain, yet received no medical care. *See Singh v. Apfel*, 222 F.3d 448, 452 (8th Cir. 2000) ("a claimant's allegations of disabling pain may be discredited by evidence that the claimant has received minimal medical treatment and/or has taken only occasional pain medications"). Additionally, Plaintiff's gait

and limb function were found to be normal, and any other physical limitations experienced by Plaintiff were provided for in the ALF's RFC. Based on the findings of the examining and non-examining physicians during the relevant time period, there is an absence of objective medical evidence in the record to support Plaintiff's complaints. *Hutton v. Apfel*, 175 F.3d 651, 655 (8th Cir. 1999). The ALJ can consider these factors when making an RFC determination, and the Court finds that substantial evidence supports the ALJ's findings.

Therefore, having reviewed this case, and being well and sufficiently advised, the Court finds that the Report and Recommendation is proper and should be and hereby is **ADOPTED IN ITS ENTIRETY**. Accordingly, the decision of the Administrative Law Judge is **AFFIRMED**. Plaintiff's Complaint is **DISMISSED WITH PREJUDICE**.

IT IS SO ORDERED this 13th day of December, 2012.

P. K. Holmes, III
P.K. HOLMES, III
CHIEF U.S. DISTRICT JUDGE