

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

TERRY CORDIAL

PLAINTIFF

V.

Civil No. 3:21-cv-03056-MEF

KILOLO KIJAKAZI, Acting Commissioner,
Social Security Administration

DEFENDANT

FINAL JUDGMENT

This cause is before the Court on the Plaintiff's complaint for judicial review of an unfavorable final decision of the Commissioner of the Social Security Administration denying his application for disability benefits. The parties have consented to entry of final judgment by the United States Magistrate Judge under the provisions of 28 U.S.C. § 636(c). The Court, having reviewed the administrative record, the briefs of the parties, the applicable law, and the parties having waived oral argument, finds as follows:

Consistent with the Court's ruling from the bench, the decision of the Commissioner of Social Security is reversed and remanded for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g).

The Court finds that the ALJ's RFC restriction to medium work does not adequately account for the degenerative changes, moderate left foraminal stenosis at the L5-S1 level, and mild scoliosis noted in the Plaintiff's lumbar spine; the mild DDD, greatest at the C5-6 level, with disk space narrowing in his cervical spine; the levoscoliosis of his thoracic spine with degenerative changes throughout; and the atrophy and chronic microvascular changes noted in the white matter of his brain. Accordingly, remand is necessary to allow the ALJ to reconsider the limitations resulting from Plaintiff's combination of physical impairments.

We also find remand necessary to allow the ALJ to reconsider the Plaintiff's mental/cognitive restrictions. While it is true that the record does not contain a great deal of objective evidence documenting his memory deficits, as previously mentioned, a CT scan of his brain did reveal some concerning abnormalities. And both the Plaintiff and his wife consistently reported memory loss and confusion that culminated in a prescription for Aricept in February 2020. We note that Aricept is used to treat confusion/dementia related to Alzheimer's disease. While it is not a cure, it can improve memory, awareness, and overall function. The fact that his doctor found his memory impairment worthy of treatment suggests additional restrictions should have been included in the RFC.

Therefore, on remand, the ALJ is directed to order consultative neurological and neurocognitive exams to determine the combined effects of Plaintiff's mental and physical impairments. In so doing, she should provide the examiner(s) with all the Plaintiff's medical records, including the CT scans of his brain and spine, to ensure that an accurate assessment is made.

IT IS SO ORDERED AND ADJUDGED on this the 13th day of January 2023.

/s/ Mark E. Ford

HON. MARK E. FORD

UNITED STATES MAGISTRATE JUDGE