

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
AT LOUISVILLE

CIVIL ACTION NO. 3:11-CV-466-H

MELISSA A. BORGEL

PLAINTIFF

V.

MICHAEL J. ASTRUE, Commissioner,  
Social Security Administration

DEFENDANT

**MEMORANDUM OPINION AND ORDER**

The Magistrate Judge has issued Findings of Fact, Conclusions of Law and Recommendation to affirm the Administrative Law Judge's ("ALJ") denial of Plaintiff's claim for Social Security Disability benefits. Plaintiff has filed objections to the report.

Plaintiff argues that the ALJ's failure to comment on the scar tissue issue and the finding of a left paracentral disc protrusion suggests that he did not consider the record as a whole in reaching his decision. Plaintiff says that as a whole the medical record presents a picture of persistent severe pain, rather than one of continual improvement. Plaintiff argues that her complaints of pain have an objective basis in the record and justify a disability award.

The ALJ found that Plaintiff could perform some sedentary work and various medical testimony including that of Dr. Carlos Hernandez supports that conclusion. Even Plaintiff's own testimony offers some support for the conclusion. None of the medical records seem to suggest that the scar tissue is likely to cause a permanent impairment. Moreover, the ALJ did consider the MRI which disclosed the scar tissue.

Overall the Court recognizes that different conclusions are possible from the evidence. However, the ALJ seems to have conducted a thorough review and the Magistrate Judge has

done so as well. Based upon the ALJ's opinion and the Magistrate Judge's recommendations, the Court can find no basis for overturning their conclusions that Plaintiff is not entitled to disability benefits.

Being otherwise sufficiently advised,

IT IS HEREBY ORDERED that the Findings of Fact and Conclusions of Law and Recommendation of the Magistrate Judge are SUSTAINED and Plaintiff's claim for disability benefits is DENIED.

This is a final and appealable order.

cc: Counsel of Record  
Magistrate Judge Dave Whalin