

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
AT LOUISVILLE

CIVIL ACTION NO. 3:13-CV-562-H

CHERYL L. SCOTT BROWN

PLAINTIFF

V.

CAROLYN COLVIN,  
ACTING COMMISSIONER OF SOCIAL SECURITY

DEFENDANT

**MEMORANDUM OPINION AND ORDER**

Plaintiff, Cheryl Scott Brown, filed this action pursuant to 42 U.S.C. § 405(g), seeking judicial review of an administrative decision of the Commissioner of Social Security, who denied her application for disability insurance and supplemental security income benefits. Upon this appeal, Plaintiff argued that the Administrative Law Judge erred when she determined that Ms. Brown retained residual functional capacity to perform her previous work.

This Court referred the matter to the Magistrate Judge who prepared Findings of Fact, Conclusions of Law and a Recommendation that the district court reverse the Commissioner's decision and remand the matter pursuant to 42 U.S.C. § 405(g) for further proceedings. In essence, the Magistrate Judge determined that the ALJ could not have properly determined Ms. Brown's physical functional capacity without the benefit of either the opinion of Ms. Brown's treating physician or a consulting physical examination. Consequently, the Magistrate Judge determined that the final decision of the Commission was not supported by substantial evidence and did not comport with applicable law.

The legal issue here appears to be whether the ALJ can determine Plaintiff's residual functional capacity ("RFC") based on an examination of all the evidence or whether the law


requires a decision based upon a specific medical opinion. This Court finds that neither the applicable regulations nor Sixth Circuit law limit the ALJ to consideration of direct medical opinions on the issue of RFC. The ALJ may review all the evidence and make a judgment, subject to the sufficiency of that evidence. The ALJ here seems to have done precisely that.

Being otherwise sufficiently advised,

IT IS HEREBY ORDERED that the decision of the Commission denying benefits is AFFIRMED and Plaintiff's petition is DISMISSED WITH PREJUDICE.

This is a final and appealable order.

September 22, 2014

  
John G. Heyburn II  
Senior Judge, U.S. District Court

cc: Counsel of Record  
Magistrate Judge James D. Moyer