

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
AT LOUISVILLE

CIVIL ACTION NO. 3:13-CV-839-H

TRAVIS R. TIFFANY

PLAINTIFF

v.

CAROLYN W. COLVIN,  
COMMISSIONER OF SOCIAL SECURITY

DEFENDANT

**MEMORANDUM OPINION & ORDER**

Mr. Tiffany is before the Court on appeal of Defendant Commissioner's denial of disability insurance benefits. After the Commissioner denied Tiffany's application for benefits, Tiffany requested and received a hearing before an Administrative Law Judge. The ALJ found that Tiffany is not disabled for purposes of the Social Security Act but retains residual functional capacity and can do jobs that exist in the economy with certain specified modifications. The Appeals Council denied Tiffany's subsequent request for review. Having exhausted his administrative remedies, Tiffany filed the present lawsuit.

Specifically, Tiffany objects that:

1. The ALJ did not abide by applicable federal regulations and case law in assessing the credibility of his hearing testimony about various symptoms, including headache pain;
2. The ALJ did not give appropriate weight to the fact that the Veterans Administration (VA) determined Tiffany to be totally disabled as a result of chronic headaches, anxiety, depression, and tinnitus resulting from traumatic brain injuries incurred in April, May and August 2006 when he was serving in Iraq and exposed to explosives; and

3. The ALJ did not give proper consideration or appropriate weight to the opinions of several treating physicians.

The matter was referred to Magistrate Judge Whalin, who recommends affirming the Commissioner. Having reviewed that report carefully, the Court is convinced that substantial evidence supports the Commissioner's decision and that the ALJ employed appropriate legal standards. The ALJ did consider the VA's 100% disability rating but noted that it appeared to be based largely on Tiffany's subjective reports and not on "the overall longitudinal record . . . ." The ALJ made his own credibility determination of Tiffany's complaints of debilitating pain in line with the applicable guidelines, and federal courts are to accord "great deference to that credibility determination." *Warner v. Comm'r*, 375 F.3d 387, 392 (6th Cir. 2004). Further, the Court is satisfied that the ALJ did not fail to take into account or give appropriate weight and deference to the opinions of Tiffany's various physicians. The ALJ's oversight regarding Tiffany's having seen a physical therapist is harmless error.

Being otherwise sufficiently advised,

IT IS HEREBY ORDERED that the Magistrate's recommendation is adopted in full (DN 13). The Commissioner's decision is affirmed and this matter is DISMISSED WITH PREJUDICE.

This is a final order.

cc: Counsel of Record  
Magistrate Judge Dave Whalin