

The standard for judicial review of an ALJ's denial of benefits has been set forth by the Eighth Circuit:

Our role on review is to determine whether the Commissioner's findings are supported by substantial evidence on the record as a whole. Substantial evidence is less than a preponderance, but is enough that a reasonable mind would find it adequate to support the Commissioner's conclusion. In determining whether existing evidence is substantial, we consider evidence that detracts from the Commissioner's decision as well as evidence that supports it. As long as substantial evidence in the record supports the Commissioner's decision, we may not reverse it because substantial evidence exists in the record that would have supported a contrary outcome or because we would have decided the case differently.

Baker v. Barnhart, 457 F.3d 882, 892 (8th Cir. 2006) (citing McKinney v. Apfel, 228 F.3d 860, 863 (8th Cir. 2000)).

Here, the court has reviewed the parties' briefs, the decision of the ALJ, the transcript of the hearing and the documentary evidence. The record contains substantial evidence on the record as a whole to support the ALJ's conclusion that plaintiff, as an officer of Starnes Investment, provided significant services to the corporation and received substantial income from the business. Plaintiff contributed "more than half the total time required for the management of the business" and his reportable income from that business was more than the threshold earnings guidelines. See 20 C.F.R. § 404.1575. Although plaintiff claims he did not engage in physical work, the regulations also consider significant mental activities done for pay or profit to be substantial gainful activity. See 20 C.F.R. § 404.1572. Plaintiff met with, arranged for or otherwise coordinated the work performed by the various contractors to develop the land and sell the lots. There were no other active employees or officers of the corporation engaged in such activities.

After review, the court agrees with the arguments in the Commissioner's brief and finds substantial evidence in the record as a whole to support the Commissioner's decision that plaintiff engaged in substantial gainful activity and was no longer disabled within the meaning of the Social Security Act. Accordingly, it is

ORDERED that plaintiff's motion to reverse the final decision of the ALJ is denied and the decision of the Commissioner is affirmed.

/s/ Fernando J. Gaitan, Jr.
FERNANDO J. GAITAN, JR.
Chief United States District Judge

Dated: March 4, 2010
Kansas City, Missouri