

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ERICA LAWRENCE,

Plaintiff

v.

C-1-13-294

COMMISSIONER OF SOCIAL SECURITY,

Defendant

This matter is before the Court upon the Report and Recommendation of the United States Magistrate Judge (doc. no. 27) and plaintiff's objections thereto (doc. no. 32). Plaintiff, a Disability Insurance Benefits (DIB) and Supplemental Security Income (SSI) claimant, brought this action pursuant to 42 U.S.C. § 405(g) seeking judicial review of the final decision of the Commissioner of Social Security denying plaintiff's application for DIB and SSI benefits. The Magistrate Judge concluded that there is substantial evidence to support the Commissioner's findings and recommended that the final decision of the Commissioner that plaintiff is not entitled to benefits be

affirmed.

I.

Plaintiff filed applications for DIB and SSI in 2008, alleging a disability onset date of June 16, 2007. Those applications were denied initially and on reconsideration. Plaintiff's request for a *de novo* hearing before the ALJ was granted and an evidentiary hearing was held March 4, 2010. Plaintiff was represented by counsel at the hearing and presented testimony. Administrative Law Judge ("ALJ") Donald Becher filed a written decision dated April 8, 2010 in which he determined that, despite several severe mental impairments, plaintiff remained capable of full-time employment and therefore was not disabled. After the ALJ's decision, plaintiff retained new counsel and there is some ambiguity in the record regarding a "duplicate appeal." There is no evidence of a formal appeal of that decision.

Plaintiff obtained new counsel and filed new application for DIB and SSI in July, 2010, alleging a new disability onset date of April 9, 2010. Those applications were denied initially and upon reconsideration. An administrative hearing was held before a new

ALJ, Gilbert A. Sheard, in January 2012. Plaintiff appeared, represented by her attorney at that time and provided testimony. An impartial medical expert and an impartial vocational expert also testified. Following the hearing, ALJ Sheard filed a written decision dated March 29, 2012, in which he also determined that plaintiff was not disabled. Plaintiff's counsel filed a Notice of Appeal to the Appeals Council, which denied further review, leaving the ALJ's 2012 decision as the Commissioner's last decision. ALJ Sheard determined that plaintiff had not engaged in substantial gainful activity since her alleged disability onset date, and that she had severe impairments of anxiety and depression. He found, however, that plaintiff's severe impairments did not meet or equal any of the listed impairments in 20 C.F.R. Part 404, Subpart P, Appendix 1, a determination that plaintiff does not challenge. Based in part on the testimony of the psychologist who testified as a Medical Expert, the ALJ found that plaintiff retained the RFC for a full range of work, but significantly limited by non-exertional (mental) restrictions.

II.

Plaintiff reiterates the same objections stated in her Statement of Errors (doc. no. 14).

III.

Judicial review of the Commissioner's decision is limited in scope by 42 U.S.C. § 405(g). The Court's sole function under the statute is to determine whether there is substantial evidence to support the Commissioner's findings of no disability. The Commissioner's findings should stand if, after a review of the record in its entirety, the Court finds that the decision is supported by "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Richardson v. Perales*, 402 U.S. 389, 401 (1971); *Mullen v. Sec. of HHS*, 800 F.2d 535 (6th Cir. 1986); *Kirk v. Sec. of HHS*, 667 F.2d 524 (6th Cir. 1981), *cert. denied* 461 U.S. 957 (1983).

Upon a *de novo* review of the record, especially in light of plaintiff's objections, the Court finds that plaintiff's contentions have either been adequately addressed and properly disposed of by the Judge or present no particularized arguments that warrant specific responses by this Court. The Court finds that the Judge has accurately set forth the controlling principles of law and properly applied them to

the particular facts of this case and agrees with the Judge that the Commissioner's decision is supported by substantial evidence in the record.

Accordingly, the Court ADOPTS AND INCORPORATES BY REFERENCE HEREIN the Report and Recommendation of the United States Magistrate Judge (doc. no. 27) and the final decision of the Commissioner denying plaintiff Disability Insurance Benefits and Supplemental Security Income benefits is hereby AFFIRMED. This case is TERMINATED on the docket of this Court.

IT IS SO ORDERED.

**s/Herman J. Weber
Herman J. Weber, Senior Judge
United States District Court**