UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

CALVIN JONES,	:	Case No. 3:13-cv-201
	:	
Plaintiff,	:	Judge Timothy S. Black
	:	
vs.	:	
	:	
COMMISSIONER OF SOCIAL SECURITY,	:	
	:	
Defendant.	:	

ORDER THAT: (1) THE ALJ'S NON-DISABILITY FINDING IS FOUND SUPPORTED BY SUBSTANTIAL EVIDENCE, AND AFFIRMED; AND (2) THIS CASE IS CLOSED

This is a Social Security disability benefits appeal. At issue is whether the administrative law judge ("ALJ") erred in finding the Plaintiff "not disabled" and therefore unentitled to disability insurance benefits ("DIB") and supplemental security income ("SSI"). (*See* Administrative Transcript ("PageID") (PageID 66-75) (ALJ's decision)).

I.

Plaintiff filed applications for DIB and SSI benefits on February 25, 2010.[1] (PageID 175-185). Plaintiff alleged a disability onset date of November 9, 2006, due to lung tumors, shortness of breath, hypertension, joint pain, and chest and leg cysts. (PageID 175, 201). Plaintiff's applications were denied initially and upon reconsideration. (PageID 107-111, 113-118, 123-136). Plaintiff then requested a hearing

[1] Plaintiff's insured status expired on March 31, 2009. (PageID 186).

which was held before an ALJ on April 24, 2010. (PageID 137-138, 83-106). The ALJ issued her decision on May 25, 2012, finding that Plaintiff was not disabled as defined by the Social Security Act. (PageID 75).

The ALJ determined that Plaintiff had severe "[p]oorly controlled hypertension, pulmonary amyloidosis[2] with mildly reduced DLCO,[3] and mitral valve prolapse[4]…" (PageID 68). She found that Plaintiff did not have an impairment or combination of impairments that met or equaled the Listing of Impairments. (PageID 69). She decided that Plaintiff had the residual functional capacity ("RFC")[5] to perform a full range of light exertional work activity[6] except that he was restricted from extremes of heat, cold, fumes, or gases. (PageID 69).

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[2] Amyloidosis is a group of diseases that results from the abnormal depositing in various tissues of the body of a particular protein called amyloid. Depending on the structure of the particular amyloid, the protein can accumulate in an isolated tissue or be widespread, affecting numerous organs and tissues. Amyloidosis can result in abnormal functioning of the organs involved and can include fatigue, shortness of breath, weight loss, lack of appetite, numbness, tingling, and weakness.

[3] DLCO (Diffusing capacity of the lung for carbon monoxide) is the extent to which oxygen passes through the air sacs of the lungs into the blood.

[4] Mitral valve prolapse ("MVP") occurs when the valve between your heart's left upper chamber (left atrium) and the left lower chamber (left ventricle) does not close properly. In most people mitral valve prolapse is not life-threatening and does not require treatment or changes in lifestyle, but some people require treatment.

[5] A claimant's RFC is an assessment of "the most [he] can still do despite [his] limitations." 20 C.F.R. § 416.945(a)(1).

[6] Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls. To be considered capable of performing a full or wide range of light work, you must have the ability to do substantially all

The Appeals Council denied review, making the ALJ's decision the final decision of the Commissioner. (PageID 54-57). Plaintiff then commenced this action in federal court for judicial review of the Commissioner's final decision pursuant to 42 U.S.C. Section 405(g).

Plaintiff was born in 1959. (PageID 175). He has a twelfth grade education. (PageID 202). His past relevant work consisted of machine operator, management trainee, and liquor establishment manager.[7] (PageID 99-100).

The ALJ's "Findings," which represent the rationale of her decision, were as follows:

1. The claimant meets the insured status requirements of the Social Security Act through March 31, 2009.

2. The claimant has not engaged in substantial gainful activity since March 26, 2006, the alleged onset date (20 C.F.R. 404.1571 *et seq.*, and 416.971 *et seq.*).

3. The claimant has the following severe impairments: poorly controlled hypertension, pulmonary, amyloidosis with mildly reduced DLCO, and mitral valve prolapse (20 CFR 404.1520(c) and 416.920(c)).

4. The claimant does not have an impairment or combination of impairments that meets or medically equals the severity of one of the listed impairments in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, 404.1526, 416.920(d), 416.925 and 416.926).

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of these activities. If someone can do light work, we determine that he or she can also do sedentary work, unless there are additional limiting factors such as loss of fine dexterity or inability to sit for long periods of time. 20 C.F.R. § 404.1567(b).

[7] Past relevant work experience is defined as work that the claimant has "done within the last 15 years, [that] lasted long enough for [the claimant] to learn to do it, and was substantial gainful activity." 20 C.F.R. § 416.965(a).

5. After careful consideration of the entire record, the undersigned finds that the claimant has the residual functional capacity to performs light work as defined in 20 CFR 404.1567(b) and 416.967(b) except the claimant cannot be exposed to extremes of heat, cold, fumes, or gases.

6. The claimant is capable of performing past relevant work as a machine operator, classified as semiskilled work at the light exertion level, as a manager trainee, classified as skilled work at the light exertion level, and as a restaurant or nightclub manager. This work does not require the performance of work-related activities precluded by the claimant's residual functional capacity (20 CFR 404.1565 and 416.965).

7. The claimant has not been under a disability, as defined in the Social Security Act, from March 26, 2006, through the date of this decision (20 CFR 404.1520(f) and 41.920(f)).

(PageID 68-75).

In sum, the ALJ concluded that Plaintiff was not under a disability as defined by the Social Security Regulations, and he was therefore not entitled to SSI or DIB. (PageID 75).

On appeal, Plaintiff argues that: (1) the ALJ erred in rejecting the opinion of his treating physician; and (2) the ALJ erred in finding that he was not credible. The Court will address each error in turn.

II.

The Court's inquiry on appeal is to determine whether the ALJ's non-disability finding is supported by substantial evidence. 42 U.S.C. § 405(g). Substantial evidence is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Richardson v. Perales*, 402 U.S. 389, 401 (1971). In performing this review, the Court considers the record as a whole. *Hephner v. Mathews*, 574 F.2d 359,

362 (6th Cir. 1978). If substantial evidence supports the ALJ's denial of benefits, that finding must be affirmed, even if substantial evidence also exists in the record upon which the ALJ could have found plaintiff disabled. As the Sixth Circuit has explained:

> "The Commissioner's findings are not subject to reversal merely because substantial evidence exists in the record to support a different conclusion. The substantial evidence standard presupposes that there is a "zone of choice" within which the Commissioner may proceed without interference from the courts. If the Commissioner's decision is supported by substantial evidence, a reviewing court must affirm."

Felisky v. Bowen, 35 F.3d 1027, 1035 (6th Cir. 1994).

The claimant bears the ultimate burden to prove by sufficient evidence that he is entitled to disability benefits. 20 C.F.R. § 404.1512(a). That is, he must present sufficient evidence to show that, during the relevant time period, he suffered an impairment, or combination of impairments, expected to last at least twelve months, that left him unable to perform any job in the national economy. 42 U.S.C. § 423(d)(1)(A).

A.

The record reflects that:

Plaintiff was seen in the emergency room on October 20, 2006 for hypertension. His blood pressure was 220/120. (PageID 484). He also had complaints of shortness of breath. (PageID 482). On July 16, 2009, his blood pressure was high and he stated that he was prescribed medication but did not take it. (PageID 468).[8]

[8] These events occurred prior to Plaintiff's November 9, 2006 alleged disability onset date.

A November 21, 2006 CT scan revealed small nodes in both of Plaintiff's hila regions.[9] There was an area of increased density in his right upper lobe that abutted the right minor fissure and indicated some infiltration. There was a second area of increased density in the right upper lobe that was either infiltration or scarring. (PageID 276, 282). Plaintiff underwent a second CT scan on December 9, 2009. It revealed two nodules in the right upper lobe of his lung which were thought to be either a large mass or pneumonia. (PageID 270, 281). He was urged to consult with a physician immediately for further evaluation of a possible tumor as a result of his possible exposure to toxic substances from his employment at a Department of Energy facility. (PageID 271, 277).

Prior to his onset date, Plaintiff was treated for hypertension, exertional dyspnea, shortness of breath, and pulmonary infiltration. (PageID 387-388). After his onset date, Plaintiff was treated for palpitations, increased fatigue, anterior tibal cyst, and uncontrolled hypertension. (PageID 384). Plaintiff was seen for lung infiltration and shortness of breath and sent to a pulmonary specialist. (PageID 382). On December 27, 2006, the specialist noted that Plaintiff's shortness of breath had decreased, but he still had dyspnea[10] on moderately severe exertion. Spirometry testing[11] was sub-optimal and indicated that he had a mild obstruction. (PageID 308, 332). Plaintiff continued to be

[9] The hila (lung roots) are structures consisting of the major bronchi and the pulmonary veins and arteries. These structures pass through the narrow hila on each side and then branch as they widen out into the lungs.

[10] Dyspnea is shortness of breath.

[11] Spirometry is the most common of the pulmonary function tests which measure lung function.

seen for shortness of breath, fatigue, hypertension, and allergies. (PageID 370, 372-373, 376, 379-380). He also had back pain. (PageID 378).

Plaintiff sought treatment from Dr. Ronald Warwar from September 9, 2008 through June 30, 2009 for his left eye moderate corneal edema.[12] (PageID 456-465). In October 2008, Plaintiff complained of pain and a film over his vision. (PageID 459). He still had eye floats in June 30, 2009.[13] (PageID 456).

On January 18, 2010, Plaintiff's pulmonary specialist, Dr. Iberico, reported to Plaintiff's family physician, Dr. Chavez, that Plaintiff had been seen on a yearly basis by Workmen's Compensation because he spent five years machining beryllium.[14] After the mass was discovered on the CT scan, Plaintiff was given antibiotics, but failed to notice a difference. Plaintiff had shortness of breath. (PageID 283). The diagnosic impression was "[r]ight upper lobe mass, suspicious for a malignant process…[and] [d]yspnea of uncertain origin." (PageID 284).

On March 23, 2010, Dr. Chavez completed a questionnaire. (PageID 287). She stated that she had treated Plaintiff for years and last saw him on March 23, 2010. His diagnosis was a new lung mass suspected of being lung cancer, dyspnea on exertion, hypertension, and allergies. Dr. Chavez indicated that Plaintiff would need a biopsy and

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[12] Corneal edema is a swelling of the cornea, the thin transparent covering over the iris of the eye, caused by fluid retention.

[13] Eye floaters are small moving spots that appear in your field of vision.

[14] Airborne beryllium particulates are toxic. Breathing very fine particles may cause serious lung conditions in a small percentage of individuals.

possible surgery. (PageID 288). His compliance with treatment was good. She stated that with lung cancer, he would not be able to perform sustained work activity. (PageID 289). Plaintiff had a biopsy done on April 6, 2010, which revealed amyloidosis. (PageID 294, 296-297).

On August 8, 2009, Plaintiff was seen in the ER for a hit on the head. He was noted to have marked hypertension at the time. (PageID 338). On September 9, 2008, he was seen for a cut on his eye and had blurry vision. (PageID 340-341, 344-347, 375). He was diagnosed with "a diffuse non-layered hyphema of the left eye with moderate corneal edema."[15] (PageID 331). On October 19, 2009, Plaintiff noted that he was helping a friend move. (PageID 371). In 2010, Plaintiff was treated for his lung mass, shortness of breath, and hypertension. (PageID 368). Plaintiff was unable to pay for his medical treatment. (PageID 365-366).

On May 3, 2010, the Mayo Clinic reported that testing confirmed AL-type amyloid. The report stated that the amyloidosis could be part of systemic amyloidosis or connected with "extranoldal marginal zone B-cell lymphomas of mucosa-associated lymphoid tissue or solitary pulmonary amyloid nodules…." (PageID 508).

Dr. Damian Danopulos evaluated Plaintiff on June 8, 2010, at the request of the State agency. On exam, Plaintiff's chest excursions were diminished. (PageID 393). Musculoskeletal testing was normal. (PageID 394). Pulmonary function studies revealed

[15] Hyphema is blood in the front chamber of the eye and without treatment can result in permanent visual impairment.

a "mild degree of restrictive lung disease without obstructive component." (PageID 394, 404). Left elbow x-rays showed mild degeneration of the olecranon.[16] (PageID 394, 401). The diagnosis was mild degree of lung disease which triggered shortness of breath when Plaintiff walked long distances, bilateral elbow and knee arthralgias, and poorly controlled hypertension at stroke level. (PageID 395). Dr. Danopulos opined that Plaintiff's fatigue was a result of his poorly controlled hypertension. (PageID 396). There was no indication that Dr. Danopulos was ever informed about Plaintiff's amyloidosis.

The record was reviewed on June 25, 2010 by Dr. Linda Hall, a non-examining physician, at the request of the State agency. She opined that Plaintiff could occasionally lift/carry up to twenty pounds and frequently lift/carry up to ten pounds, and stand/walk for six hours out of eight and sit for six hours out of eight. (PageID 415). Plaintiff could occasionally climb ramps and stairs, but he was never to climb ladders, ropes, and scaffolds. He could occasionally crawl. (PageID 416). He was to avoid concentrated exposure to extreme cold, heat, humidity, and even moderate exposure to fumes, odors, dusts, gases, poor ventilation, and hazards. (PageID 418).

On December 21, 2010, Dr. Danopulos stated that Plaintiff suffered from shortness of breath. Plaintiff was advised to have either radiation or chemotherapy after his lung biopsy, but he had neither of them. He used only blood pressure medication and had no resting dyspnea. (PageID 440). Plaintiff's blood pressure was 220/120 and he

[16] The olecranon is a large, thick, curved bony eminence of the forearm that projects behind the elbow.

had no evidence of congestive heart failure. Dr. Danopulos noted that Plaintiff "suffers from unusually high hypertension. He had a lung biopsy…which revealed 'Fragments of fibroinflamatory tissue with amyloidosis.'" (*Id.*) Dr. Danopulos found that Plaintiff's shortness of breath was a result of his obesity, his poorly controlled hypertension, and his suggested amyloidosis. (*Id.*)

Plaintiff underwent an echocardiogram on December 21, 2010 by Dr. Frank Wenzke. The left ventricle had underlying moderate to severe concentric hypertrophy and trivial tricuspid insufficiency.[17] (PageID 443).

Dr. Bradley Lewis, another non-examining physician, reviewed the medical record on January 10, 2011, at the request of the State agency. He affirmed the previous assessment. (PageID 448).

On September 16, 2011, Dr. Chavez completed a medical assessment of Plaintiff's ability to perform work activity. She opined that Plaintiff could lift/carry twenty pounds occasionally and ten pounds frequently. Plaintiff could walk a total of one hour out of eight owing to his dyspnea on exertion, and could sit for two to three hours out of eight. (PageID 516). He was never to climb or crawl, but could occasionally balance, stoop, crouch, or kneel. His ability to see and push/pull was affected. (PageID 517). He was restricted from dust, chemicals, temperature extremes, humidity, and fumes, because it could cause worsening of his shortness of breath. (PageID 518). Dr. Chavez opined that

[17] Tricuspid insufficiency is a valvular heart disease which refers to the failure of the heart's tricuspid valve to close properly during systole. As a result, with each heart beat some blood passes from the right ventricle to the right atrium, the opposite of the normal direction.

Plaintiff could perform sedentary work activity, but not light work activity. (PageID 519). In answers to interrogatories, she stated that she had treated Plaintiff since 1997 for hypertension, increased lipids, allergic rhinitis, amyloidosis, and LVH.[18] (PageID 521). He was unable to withstand the pressure of meeting normal standards of work productivity and work accuracy because of his shortness of breath and reduced endurance owing to his lung mass. (PageID 523). Treatment notes show that Plaintiff was fatigued, had shortness of breath, continued to have hypertension, and started have hip pain. (PageID 529-538).

B.

First, Plaintiff alleges that the ALJ erred in rejecting the opinion of his treating physician to find that he could perform work activity.

In March 2010, Dr. Chavez, Plaintiff's treating physician, concluded that she was "pretty certain that [Plaintiff] has lung cancer and will not be able to perform sustained work activity." (PageID 289). The ALJ declined to given this opinion controlling weight because it was based on the mistaken belief that Plaintiff had lung cancer. (PageID 73). In September 2011, Dr. Chavez concluded that Plaintiff could perform sedentary work, as long as he limited his postural activities and restricted his exposure to chemicals, extreme temperatures, dust fumes, and humidity. (PageID 524-27). The ALJ found that this opinion was not entitled to controlling or significant weight because it was based primarily on Plaintiff's subjective complaints of dyspnea on exertion and joint arthralgia,

[18] Left ventricular hypertrophy ("LVH") is the thickening of the myocardium (muscle) of the left ventricle of the heart.

despite there being no diagnostic evidence of joint disease.[19] (PageID 73). *See, e.g.*, *Bledsoe v. Barnhart*, 165 F. App'x 408, 412 (6th Cir. 2006) ("The ALJ reasoned that Dr. Lin's conclusions are 'not well supported by the overall evidence of record and are inconsistent with other medical evidence of record.' This is a specific reason for not affording controlling weight to Dr. Lin.").

In order to give Dr. Chavez's opinions controlling weight, they had to be well-supported by medically acceptable clinical and laboratory diagnostic techniques and not inconsistent with other substantial evidence in the record. 20 C.F.R. §§ 404.1527(d), 416.927(d). The ALJ was not required to assign controlling weight to Dr. Chavez's opinions if these two requirements were not met. SSR 96-6p ("In appropriate circumstances, opinions from…program physicians…may be entitled to greater weight than the opinions of treating or examining sources.").

Plaintiff maintains that the ALJ should have accepted Dr. Chavez's opinions because Plaintiff had amyloidosis, a rare and potentially life threatening medical condition. (Doc. 7 at 11). However, Plaintiff failed to present evidence that the condition did in fact affect his ability to work. "The mere diagnosis of [an impairment]…says nothing about the severity of the condition." *Higgs v. Brown*, 880 F.2d 860, 863 (6th Cir. 1988). In order to provide that he was disabled, Plaintiff had to provide evidence that the amyloidosis would prevent him from performing any

[19] If the ALJ adopted Dr. Chavez's opinion that Plaintiff could only perform sedentary work, he would have "grid out" as disabled in 2009 at age 50. 20 C.F.R. pt. 404, Subpt. P, app. 2, Section 201.00(g).

substantial gainful activity for 12 continuous months. 20 C.F.R. § 404.1512(c), 416.912(c) ("You must provide medical evidence showing…how severe [your impairment] is during the time you say that you are disabled. You must provide evidence showing how your impairment(s) affects your functioning during the time you say that you are disabled."). Although Plaintiff was diagnosed with pulmonary amyloidosis, his pulmonary function study and diffusing capacity of the lung for carbon monoxide test (DCLO) was normal. (PageID 416, 448). Additionally, two medical professionals concluded that Plaintiff's pulmonary amyloidosis would not preclude him from working. (PageID 71, citing 414-28, 448). Therefore, the ALJ properly declined to find the condition disabling and reasonably concluded that Plaintiff could perform light work, as long as he avoided extreme temperatures, fumes, and gases. (PageID 69).

Plaintiff also maintains that the ALJ erred in giving great weight to the opinions of the consultative physician and the state agency reviewing physicians instead of the treating physician.

Dr. Danopulos examined Plaintiff in June 2010. (PageID 391-412). Plaintiff told Dr. Danopulos that he could not work because he had difficulties due to shortness of breath, hypertension, and pain in his elbows, knee, neck, and low back. (PageID 391). On examination, Dr. Danopulos noted that Plaintiff's lungs were clear to auscultation, his chest excursions were diminished, and his pulmonary function study revealed mild degree restrictive lung disease without obstructive component. (PageID 395). Dr. Danopulos also noted that Plaintiff's elbows, knees, and spine revealed normal and

painless motions, and a x-ray of the elbow revealed minimal degeneration. (PageID 395). Dr. Danopulos' clinical impression was arthralgias of the cervical and lumbar spine and very poorly controlled hypertension. (PageID 395). He concluded that Plaintiff's ability to do work-related activities was affected by his high blood pressure and mild lung disease. (PageID 395).

Plaintiff maintains that the ALJ should not have relied on Dr. Danopulos' June 2010 opinion because he was not aware of Plaintiff's severe amyloidosis until December 2010. However, Dr. Danopulos did not assess any additional work-related restrictions when he issued his December 2010 opinion. (PageID 440). In fact, he did not assess any restrictions at all. (*Id*.) Dr. Danopulos merely explained that Plaintiff suffered from unusually high hypertension, had a lung biopsy which revealed fragments of fibroinflammatory tissue with amyloidosis, and did not have clinical evidence of cardiac amyloidosis or congestive heart failure. (PageID 440). Although Plaintiff maintains that "the ALJ picked and chose the medical evidence that supported her decision and erroneously reject[ed] the evidence favorable to Mr. Jones", the ALJ discussed Plaintiff's allegations (PageID 69), Dr. Danopulos' findings (PageID 71), and Dr. Chavez's medical opinions (PageID 72-73) in reaching her findings. Accordingly, the ALJ followed the correct legal standard, and reasonably concluded that Dr. Danopulos' opinion was entitled to great weight.

Drs. Hall and Lewis reviewed Plaintiff's medical records and found that Plaintiff could do light work. Specifically, Dr. Hall noted that Plaintiff's pulmonary function

study and DCLO tests were only slightly abnormal and did not account for Plaintiff's shortness of breath and difficulties walking. (PageID 71 citing 416). Other than poorly controlled hypertension and minimal degeneration of the elbow, Dr. Hall did not identify any significant abnormalities in Plaintiff's physical examination. (PageID citing 416). Dr. Lewis noted that Plaintiff's physical examination showed full range of motion and strength in all muscle groups and no evidence of congestive heart failure or cardiac amyloidosis. (PageID 71). Dr. Lewis also noted that Plaintiff did not comply with the treatment recommendations of her treating sources which led to poorly controlled hypertension. (PageID 72). Since the opinions of Drs. Danopulos, Hall and Lewis were consistent with the evidence, the ALJ reasonably gave them great weight.[20]

C.

Next, Plaintiff maintains that the ALJ erred in finding that he was not entirely credible.

[20] Plaintiff criticizes the opinions of Drs. Hall and Lewis because they did not review all of the evidence. However, it was Plaintiff's burden to prove that he was disabled. Plaintiff was responsible for furnishing the ALJ with the relevant medical evidence. Several of the exhibits that were submitted after Drs. Hall and Lewis provided their opinions were dated before June 2010, so they were presumably in existence when they reviewed Plaintiff's medical records. *See* 20 C.F.R. §§ 404.1512(a), 416.912(a) ("In general, you have to prove to us that you are…disabled. Therefore, you must bring to our attention everything that shows that you are…disabled. This means that you must furnish medical and other evidence that we can use to reach conclusions about your medical impairment(s)."). Moreover, The ALJ cited the medical evidence that was submitted after Drs. Hall and Lewis issued their opinions and explained why it did not necessitate a finding of disability. (PageID 73). *See also Kelly v. Comm'r of Soc. Sec*., 314 F. App'x 827, 831 (6th Cir. 2009) ("There will always be a gap between the time the agency experts review the record and give their opinion with respect to the Listing and the time the hearing decision is issued. Absent a clear showing that the new evidence renders the prior opinion untenable, the mere fact that a gap exists does not warrant the expense and delay of a judicial remand.").

The ALJ, not the reviewing court, has the responsibility to evaluate the credibility of witnesses, including that of the claimant. *Walters v. Comm'r of Soc. Sec.*, 127 F.3d 525, 531 (6th Cir. 1997). An ALJ's credibility determinations about the claimant are to be given great weight. *Cruse v. Comm'r of Soc. Sec.*, 502 F.3d 532, 542 (6th Cir. 2007).

Specifically, Plaintiff argues that he had amyloidosis, a potentially life-threatening condition, and therefore was disabled. However, while Plaintiff was diagnosed with amyloidosis, there is no significant evidence that it was disabling. Dr. Hall explained that Plaintiff's pulmonary function study and DCLO tests were only mildly impaired and his oxygen saturation was normal. (PageID 419).

Given the lack of medical evidence, it was reasonable for the ALJ to discredit the Plaintiff's claim that the amyloidosis was disabling and to conclude that Plaintiff was not in fact disabled.

III.

For the foregoing reasons, Plaintiff's assignments of error are unavailing. The ALJ's decision is supported by substantial evidence and is affirmed.

IT IS THEREFORE ORDERED THAT the decision of the Commissioner, that Calvin Jones was not entitled to supplemental security income and disability insurance benefits, is found **SUPPORTED BY SUBSTANTIAL EVIDENCE**, and **AFFIRMED**.

The Clerk shall enter judgment accordingly, and, as no further matters remain pending for the Court's review, this case is **CLOSED**.

Date: 2/21/14

/s/ Timothy S. Black
Timothy S. Black
United States District Judge