

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

SUSAN JAMES,

Plaintiff,

v.

CAROLYN W. COLVIN, Acting
Commissioner, Social Security
Administration,

Defendant,

Case No. CIV-13-078-RAW-KEW

ORDER

On February 14, 2014, the United States Magistrate Judge entered a Report and Recommendation in the above-referenced case, recommending that this Court affirm the Commissioner's decision upholding on appeal the findings of the Administrative Law Judge ("ALJ"), denying benefits to Plaintiff. Plaintiff filed an objection on February 28, 2014, re-urging her arguments that the ALJ erred by referencing objective evidence when Plaintiff suffered from fibromyalgia which gives rise only to subjective symptoms and by summarizing the evidence in its credibility determination.

The ALJ's decision was made at step five of the sequential disability evaluation. The ALJ determined that Plaintiff suffers from severe impairments, but that she retains the residual function capacity to perform a wide range of unskilled light work. Plaintiff argues that it simply cannot be both ways, *i.e.*, that the ALJ cannot determine that she is credible enough for her


doctors to determine that she suffers from fibromyalgia and then determine that she is not credible enough to accept her assessment that she cannot work due to her symptoms. The court disagrees.

The Magistrate Judge was correct that the inquiry does not end with the finding of a severe impairment. The ALJ must then determine whether that impairment precludes work at any exertion level. It does not follow, as Plaintiff suggests, that because fibromyalgia symptoms are subjective, if an ALJ finds a claimant suffers from fibromyalgia, the ALJ must then conclude that if the claimant says she cannot work, she cannot, effectively skipping the final step.

Upon full consideration of the entire record and the issues herein, this court finds that the Magistrate Judge's recommendation to affirm the ALJ is well-supported. The ALJ's decision is supported by substantial evidence, and the correct legal standards were applied. Accordingly, the Report and Recommendation of the United States Magistrate Judge is hereby AFFIRMED and ADOPTED as this court's Findings and Order. The decision of the Commissioner upholding on appeal the findings of the ALJ is affirmed.

IT IS SO ORDERED this 13th day of March, 2014.

Dated this 13th day of March, 2014.



Ronald A. White
United States District Judge
Eastern District of Oklahoma