

3. Consistent with the R & R, the Court finds that the administrative record contains substantial evidence to support the ALJ's findings of fact and conclusions of law, and thus the relief requested in Plaintiff's Brief in Support of Request for Review is **DENIED**, and the decision of the Commissioner is **AFFIRMED**.

It is so **ORDERED**.

BY THE COURT:



CYNTHIA M. RUFÉ, J.

opinion of a non-examining source. The case was referred to Magistrate Judge Sitarski for an R & R. The R & R thoroughly analyzed the issues presented in Plaintiff's briefs. Plaintiff has filed objections to the R & R which essentially disagree with the R & R's conclusions.

With regard to the first issue, Judge Sitarski found that although the ALJ on remand adopted the physical residual functional capacity determined by the previous ALJ, he did so only after an independent evaluation of the medical evidence. Plaintiff objected to this finding, again arguing that the ALJ did not follow the remand order. The Court adopts the reasoning of the R & R in finding that this aspect of the ALJ's decision was not inconsistent with the Court's order on remand, and that the decision was supported by substantial record evidence.

Regarding the question of whether additional medical expert testimony as to Plaintiff's physical condition was required, the Court agrees with the R & R's finding that it was not. It is the Plaintiff's burden to produce evidence that his medical condition was disabling prior to his date last insured, in 2005. Plaintiff did put forth evidence on that issue, some of which the ALJ credited, and some of which he found was not entitled to great weight. The ALJ determined that Dr. Ware's April 2005 opinion regarding the disabling severity of Plaintiff's condition was not consistent with Plaintiff's contemporaneous medical records. Despite Plaintiff's objections, the Court agrees with the R & R's finding that the ALJ did not err in issuing a decision without obtaining additional medical evidence, because the record evidence provided a sufficient basis for the ALJ's decision, and because additional evidence would not shed light on Plaintiff's condition prior to his date last insured, nearly 10 years ago.

Finally, the R & R found that the ALJ's decision regarding the functional limitations caused by Plaintiff's mental illness (anxiety) and physical ailments was supported by the medical evidence. In his brief and his objections, Plaintiff argues that the ALJ improperly accorded great weight to the psychiatric expert who testified at the hearing (Dr. Bell), and less weight to examining sources. The R & R found that the ALJ properly gave little weight to the Mental Impairment Questionnaire prepared by Dr. Segal (who evaluated but did not have an ongoing treatment relationship with Plaintiff), because it was not accompanied by any report, narrative, or notes to support his conclusions, and because he evaluated Plaintiff more than a year after his date last insured. The R & R found that the ALJ reasonably assigned little weight to consultative examiner Dr. Kaufman's opinion, because he examined Plaintiff about eighteen months after this date last insured. Finally, the R & R found that the ALJ relied on adequate record evidence to support his conclusion that Dr. Warner's opinion that Plaintiff could not work was inconsistent with Plaintiff's treatment records. The Court agrees that the ALJ's opinion was supported by substantial evidence.