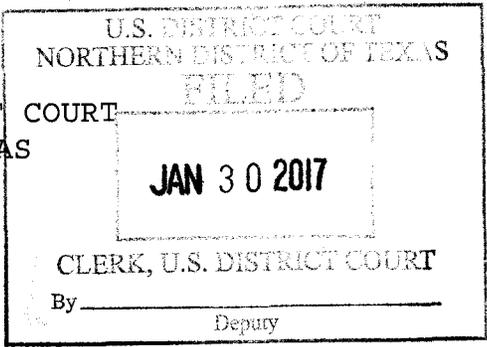


IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION



BONNIE LEE OCHOA,

Plaintiff,

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VS.

NO. 4:15-CV-781-A

NANCY A. BERRYHILL, ACTING
COMMISSIONER, SOCIAL SECURITY
ADMINISTRATION,¹

Defendant.

MEMORANDUM OPINION
and
ORDER

Came on for consideration the above-captioned action wherein Bonnie Lee Ochoa is plaintiff and the Acting Commissioner of Social Security, currently Nancy A. Berryhill, ("Commissioner") is defendant. This is an action for judicial review of a final decision of the Commissioner denying plaintiff's claims for disability insurance benefits and supplemental security income benefits under the Social Security Act. On December 30, 2016, the United States Magistrate Judge issued his proposed findings and conclusions and his recommendation ("FC&R"), and granted the parties until January 13 2017, in which to file and serve any

¹Nancy A. Berryhill replaced Carolyn W. Colvin as acting commissioner of the Social Security Administration. Therefore, pursuant to Federal Rule of Civil Procedure 25(d), Berryhill is automatically substituted as the party of record.

written objections thereto. On January 13, 2017, plaintiff filed her objections. The court ordered the Commissioner to respond, which she did on January 26, 2017. After a thorough study of the record, the magistrate judge's proposed findings and conclusions, and applicable legal authorities, the court has concluded that plaintiff's objections lack merit and that the recommendation of the magistrate judge should be accepted.

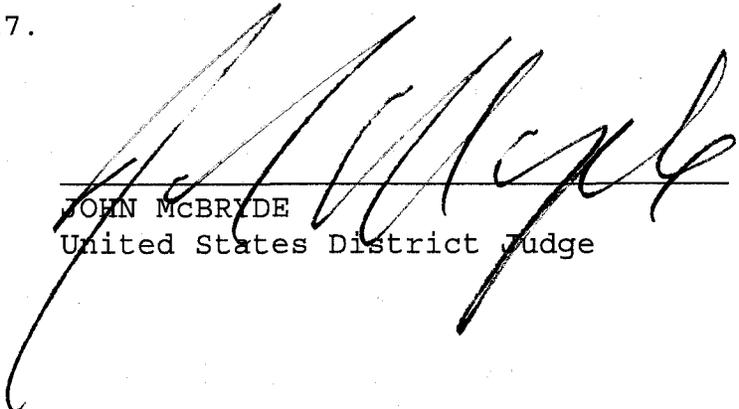
Plaintiff first complains that the Administrative Law Judge ("ALJ") failed to properly weigh the medical opinion evidence, arguing (in essence) that the ALJ was bound by a treating physician's conclusion that plaintiff was disabled. As the Commissioner notes in her response, the record contains evidence of examinations by other treating physicians showing normal functions that are substantial evidence supporting a nondisability finding. Plaintiff misleadingly ignores this evidence in making her argument.

Plaintiff next complains that the ALJ failed to properly evaluate plaintiff's credibility. The ALJ gave a thorough discussion of the reasons for finding plaintiff to be less than credible in certain regards, which need not be repeated here. TR 148-51. The ALJ did not base his decision solely on a lack of objective medical evidence to support plaintiff's allegations, as plaintiff contends.

Finally, plaintiff complains that the appeals council failed to properly consider new medical evidence. However, as the appeals council noted, the new evidence submitted relates to a period after the ALJ's decision. TR 15. The records were not material to the time period considered by the ALJ.

The court accepts the recommendation of the magistrate judge and ORDERS that the decision of the Commissioner that, based on the application for disability insurance benefits protectively filed August 29, 2012, plaintiff is not disabled under sections 216(i) and 223(d) of the Social Security Act, and based on the supplemental security income application protectively filed on August 29, 2012, plaintiff is not disabled under section 1614(a)(3)(A) of the Social Security Act, be, and is hereby, affirmed.

SIGNED January 30, 2017.



JOHN MCBRYDE
United States District Judge