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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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JASON W. ANGELL, JR.,

Plaintiff,

v.

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

Defendant.

MEMORANDUM DECISION AND ORDER  
AFFIRMING DECISION OF  
COMMISSIONER

Case No. 2:14-cv-123

Magistrate Judge Brooke C. Wells

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All parties in this case have consented to having United States Magistrate Judge Brooke C. Wells conduct all proceedings in this case, including entry of final judgment, with appeal to the United States Court of Appeals for the Tenth Circuit.<sup>1</sup>

Plaintiff Jason W. Angell, Jr. (“Plaintiff”) seeks judicial review of the determination of the Commissioner of the Social Security Administration that denied her application for Social Security Disability Insurance Benefits and Supplement Security Income. On February 4, 2015, the Court held oral argument on the administrative record. Plaintiff was represented by Mr. Richard A. Williams and Defendant Carolyn W. Colvin (“Defendant”) was represented by Ms. Alexess Rea, Special Assistant U.S. Attorney admitted pro hac vice. For the reasons set forth below and as stated on the record at the conclusion of the oral argument, the Court AFFIRMS the decision of Commissioner.

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<sup>1</sup> Docket no. 16.

## FINDINGS<sup>2</sup>

Upon consideration of the administrative record, relevant case law, the arguments of the parties made in their briefs and during oral argument, the Court finds as follows:

**A. The Court finds the ALJ did not err in his evaluation and written findings relating to Plaintiff's medical providers.**

In his opinion, the ALJ thoroughly discussed the opinions of Drs. McGill and Neilson and his findings were supported by the record and substantial evidence. The Court is not persuaded by Plaintiff's arguments that the physician's opinions should have been adopted verbatim. The Court was able to follow the reasoning of the ALJ in this case and finds no error in the ALJ's analysis that constitutes remand.

Next, the Court finds in this case, the ALJ did not err in failing to reference or discuss the lay witness testimony of Plaintiff's sister. While the Court does not look favorably on the ALJ's failure to discuss all the evidence in the record, the Court finds any error made by the ALJ to be harmless. The error is harmless because the Plaintiff's sister's testimony was consistent with Plaintiff's testimony and the ALJ found Plaintiff not to be credible--a finding that was not challenged by the Plaintiff upon appeal. Therefore, this case differs from the facts in Blea v. Barnhart<sup>3</sup>.

**B. The ALJ did not err in determining claimant's conditions did not meet or equal a Listing?**

The Court finds the ALJ did not err in failing to call an independent medical expert. The ALJ had sufficient evidence before him to make a reasoned decision. In addition, the Court

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<sup>2</sup> The Court finds the parties have adequately set forth Plaintiff's medical history in their respective briefs. Therefore, the Court finds it unnecessary to repeat that record here.

<sup>3</sup> 466 F.3d 903 (10th Cir. 2006).

agrees with and is persuaded by Defendant's argument that the reviewing state physician opinions constitute additional review of the examiners' opinions and satisfied any need for further medical testimony with regard to limitations or the Listings.

Thus, Plaintiff did not meet his burden in persuading the Court that the ALJ erred in his determination with regard to the Listings.

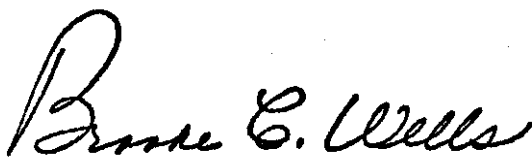
**C. The Court finds the ALJ did not err in his step five analysis.**

Plaintiff argues the ALJ should have included additional limitations in his hypothetical question to the VE but the Court finds these arguments merely recite arguments made in relation to the Plaintiff's RFC. The ALJ's hypothetical in this case contained the limitations ultimately included in the RFC assessment and the VE's testimony constituted substantial support for the ALJ's conclusion that the Plaintiff was not disabled. Therefore, the Court finds that substantial evidence supports the ALJ's findings.

**CONCLUSION & ORDER**

Therefore, for the foregoing reasons, the Court finds it is not persuaded by Plaintiff's arguments and remand for further proceedings are not warranted. The ALJ's opinion is supported by substantial evidence. Therefore, IT IS HEREBY ORDERED that the Commissioner's decision is AFFIRMED.

DATED this 5 February 2015.



Brooke C. Wells  
United States Magistrate Judge