6-7-2018

Joseph Sponheimer v. Commissioner Social Security

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 16-4042

JOSEPH SPONHEIMER,
Appellant

v.

COMMISSIONER OF SOCIAL SECURITY

Appeal from the United States District Court
for the District of New Jersey
(District Court No. 1:15-cv-04180)
District Judge: Hon. Robert B. Kugler

Submitted Pursuant to Third Circuit L.A.R. 34.1(a)
July 11, 2017

Before: McKEE, AMBRO, and RESTREPO *Circuit Judges*.

(Opinion filed: June 7, 2018)

OPINION[*]

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[*] This disposition is not an opinion of the full court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

McKEE, *Circuit Judge*.

Appellant Joseph Sponheimer appeals the District Court's order affirming the final decision of the Acting Commissioner of Social Security finding that Sponheimer was not entitled to Disability Insurance Benefits ("DIB") under Title II of the Social Security Act, 42 U.S.C. §§ 401–433. For the reasons below, we will affirm.

I.[1]

Our review is limited to determining whether substantial evidence supports the finding of the Administrative Law Judge ("ALJ") that Sponheimer was not disabled on or before his date last insured.[2] Substantial evidence is defined as "more than a mere scintilla[,]" and "[i]t means such relevant evidence as a reasonable mind might accept as adequate."[3] To prove a disability existed, Sponheimer had to demonstrate that he had an "inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months."[4] We will not disturb a decision that is "supported by substantial evidence" in the record.[5]

II.

[1] We write only for the parties in this non-precedential opinion, so our factual recitation is brief.
[2] *Zirnsak v. Colvin*, 777 F.3d 607, 610 (3d Cir. 2014); 42 U.S.C. § 423(a), (c); 20 C.F.R. § 404.101.
[3] *Plummer v. Apfel*, 186 F.3d 422, 427 (3d Cir. 1999) (citation omitted).
[4] 42 U.S.C. § 416 (i)(1); 42 U.S.C. § 423 (d)(1)(A).
[5] *Hartranft v. Apfel*, 181 F.3d 358, 360 (3d Cir. 1999).

Sponheimer first challenges the ALJ's explanation of his reliance on certain medical testimony. We have stated that, "in most cases, a sentence or [a] short paragraph" will "probably suffice" to support an ALJ's decision.[6] Here, the ALJ provided sufficient reasons for the weight given to the evidence from each of the treating physicians in this case.[7] Therefore, we find that the ALJ adequately explained the basis for his conclusions.

Moreover, the ALJ could properly discount the opinions of physicians whose opinions were "inconsistent with . . . other substantial evidence in [Sponheimer's] case record."[8] Here, the ALJ ultimately found, among other things, that Sponheimer could perform sedentary work with "occasional pushing and pulling with the lower extremities, climbing of ramps and stairs, balancing, stooping, kneeling, crouching, [and] crawling;" but "can never climb ropes, ladders, or scaffolds."[9] The record is replete with evidence that demonstrates that Sponheimer's physical ailments did not require him to be considered disabled under the Social Security Act.

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[6] *Cotter v. Harris*, 650 F.2d 481, 482 (3d Cir. 1981).
[7] *See e.g.*, App. 240 ("Dr. Mariani's opinions [are] given some weight regarding the claimant being able to perform sedentary work with limited standing and walking, no climbing or heavy lifting; but his opinion of no squatting, and complete inability to work noted on several occasions are not supported by the record as discussed above and are given little weight . . . . Dr. O'Shea's opinions. . . are given great weight as they are consistent with the evidence of record indicating a limited sedentary residual functional capacity . . . . Dr. Khona's opinion is given some weight, but not greater weight because it is not quantified and too vague").
[8] 20 C.F.R. § 404.1527(c)(2). *See Jones v. Sullivan*, 954 F.2d 125, 129 (3d Cir. 1991) ("[I]n the absence of contradictory medical evidence, an ALJ in a social security disability case must accept the medical judgment of a treating physician.").
[9] App. 240.

Sponheimer also contends that the ALJ did not properly evaluate all of his symptoms when determining his Residual Functional Capacity ("RFC") and that the "ALJ's RFC assessment was contrary to the weight of the evidence."[10] We do not agree.

The ALJ properly relied on substantial evidence to support his finding that Sponheimer was not eligible for DIB.[11] When evaluating a claimant's symptoms, an ALJ should evaluate the intensity and persistence of the symptoms, such as pain, and determine the extent to which the claimant's symptoms limit his or her capacity for work.[12] To do this, an ALJ should rely on "objective medical evidence" and "other relevant evidence" to evaluate the extent that the alleged symptoms limit the claimant's ability to do basic work activities.[13] Other relevant evidence includes precipitating or aggravating factors, symptoms, medication and treatment, and daily activities.[14] The ALJ could quite properly discount subjective complaints that were not otherwise supported by the record.[15] Accordingly, we "defer to [his] credibility determination."[16]

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[10] Appellant Br. 12–13.
[11] App. 240.
[12] 20 C.F.R. § 404.1529(c).
[13] 20 C.F.R. § 404.1529(c)(2)–(3).
[14] 20 C.F.R. § 404.1529(c)(3)(i)(iii)(v).
[15] *See Schaudeck v. Comm'r of SSA*, 181 F.3d 429, 433 (3d Cir. 1999) ("An ALJ must give great weight to a claimant's subjective testimony of the inability to perform even light or sedentary work when this testimony is supported by competent medical evidence[;]" . . . [however,] the ALJ can reject such claims if he does not find them credible.") (citations omitted).
[16] *Reefer v. Barnhart*, 326 F.3d 376, 380 (3d Cir. 2003).

Here, the ALJ fully discussed Sponheimer's functional limitations—including his limitations on climbing, sitting, standing, lying down, and leg elevation.[17] He found that Sponheimer's "activities [were] more extensive and his capabilities [were] greater than would be expected of one who is alleging totally disabling impairments and limitations."[18] The ALJ discussed substantial clinical evidence to support his ultimate finding that Sponheimer "had the residual functional capacity to perform sedentary work . . . [and] he can perform pushing and pulling with lower extremities."[19] This evidence included: 5/5 motor strength, mostly normal gait, good range of motion, no right leg or knee instability, negative straight leg raise, and no focal motor deficits.[20] Furthermore, the ALJ's decision was supported by Sponheimer's own testimony detailing his daily activities.[21] Accordingly, we do not find error in the ALJ's determination of Sponheimer's RFC.

Finally, Sponheimer alleges that "the final decision [was] not supported by substantial evidence, [because] the ALJ did not give sufficient considerations to Appellant's testimony about his restrictions, nor did he sufficiently explain his reasons for concluding that it was not entirely credible."[22] We do not agree. An ALJ must consider subjective evidence about pain and other symptoms if the evidence can

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[17] App. 238.
[18] *Id.*
[19] *Id.* at 236.
[20] *Id.* at 30, 65–66, 69, 77, 80, 82–85, 86–87, 92, 98, 155, 157, 160, 162, 164, 171, 173, 175, 181, 183, 203–04, 211, 219–20.
[21] App. 238.
[22] Appellant Br. at 16.

"reasonably be accepted as consistent with the objective medical evidence and other evidence."[23]

Here, the medical evidence in the record did not support Sponheimer's testimony that he cannot perform sedentary work. The ALJ discussed the medical evidence that contradicted Sponheimer's alleged physical restrictions and also discussed how that evidence supported the ALJ's conclusion that portions of Sponheimer's testimony were not credible.[24] Thus, we conclude that the ALJ's decision was supported by substantial evidence and gave sufficient consideration to Sponheimer's testimony.

III.

For the aforementioned reasons and in light of our overall examination of the record, we hold that the Commissioner's determination is supported by substantial evidence. Accordingly, we will affirm the judgment of the District Court.

[23] 20 C.F.R. § 416.929(c)(3).
[24] App. 237–41.