

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

-----  
REBECCA M. LORENZ,

Plaintiff,

v.

MICHAEL ASTRUE,  
Commissioner of Social Security,

Defendant.  
-----

OPINION and ORDER

11-cv-140-bbc

This is an action for judicial review of an adverse decision of the Commissioner of Social Security brought pursuant to 42 U.S.C. § 405(g). Plaintiff Rebecca M. Lorenz seeks reversal of the commissioner's decision that she is not disabled and thus not eligible for Disability Insurance Benefits and Supplemental Security Income under Title II and Title XVI of the Social Security Act, codified at 42 U.S.C. §§ 416(I) and 423(d) and 1382(c)(3)(A). Plaintiff contends that the administrative law judge erred in determining her residual functional capacity, in assessing her credibility and in determining at step four that she could perform her past work as an electronics worker. Having carefully reviewed the record and the administrative law judge's decision, I am rejecting plaintiff's arguments and affirming the

commissioner's decision.

The following facts are drawn from the administrative record (AR):

## FACTS

### A. Background

Plaintiff was born on October 28, 1961. AR 100. She has an eleventh grade education, AR 116, and has worked as a machine operator, AR 121. Plaintiff stands approximately five feet seven inches tall and weighs 226 pounds. AR 114.

On May 22, 2008, plaintiff filed an application for disability insurance benefits and supplemental security income, alleging that she had been unable to work since September 11, 2007 because of injuries from an assault. AR 97, 115. After the local disability agency denied plaintiff's application initially and upon reconsideration, she requested a hearing, which was held on March 16, 2010 before Administrative Law Judge Joseph Lisiecki. The administrative law judge heard testimony from plaintiff, AR 35-41, and from a neutral vocational expert, AR 41-42. On March 24, 2010, the administrative law judge issued his decision, finding plaintiff not disabled. AR 15-26. This decision became the final decision of the commissioner on January 21, 2011, when the Appeals Council denied plaintiff's request for review. AR 1-3.

## B. Medical Evidence

### 1. Physical impairments

On September 12, 2007, plaintiff was found at an abandoned gas station lying on the ground after being assaulted and burned. At the hospital, plaintiff was intubated and was comatose for 15 days. She was treated for burns, physical injuries, skull fractures with sudural and subarachnoid hemorrhage, lacerations to the left forearm with nerve damage, slight degenerative changes at C2- through C5, left orbit fracture with swelling and vestibular dysfunction. AR 184-94, 196, 222-49 and 341-440.

On October 11, 2007, plaintiff was seen by Dr. Jeff Olson, she was experiencing gait disturbance, left arm weakness, memory problems and pain in her fingertips. At that time, plaintiff reported drinking 20 cans of beer a week. AR 216-29. A month later, on November 12, 2007, plaintiff was given a diagnosis of traumatic brain injury, vertigo and muscle weakness. AR 197-201, 214-16, 565-66. On December 12, 2007, plaintiff's vertigo was diagnosed as benign paroxysmal positional vertigo. AR 302-08, 570-71.

On January 7, 2008, plaintiff was seen by Dr. Olson, who noted that she was recovering relatively well, with some dizziness. Although Dr. Olson had referred plaintiff for a electromyogram for her left thumb, plaintiff declined the test because she thought her thumb was improving. Olson stated that plaintiff was likely going to be able to return to work in the near future. AR 213.

Plaintiff began seeing Dr. Reynaldo C. Maniquiz on March 4, 2008. At the time, she reported persistent neck pains radiating down to the right shoulder with dizziness and a twisted left knee. Maniquiz prescribed Vicodin for her and continued her physical therapy. Also, he ordered magnetic resonance imaging scans. AR 255-56. The March 6, 2008 scans indicated minimal C3-4 and C6-7 disc disease and degenerative disease of the right shoulder joint. AR 336-37.

On March 19, 2008, plaintiff saw Dr. Maniquiz and reported persistent pain and discomfort in her left knee. Maniquiz found her left knee tender and swollen with flexion and extension impaired. AR 257. A magnetic resonance imaging scan revealed a meniscal tear. AR 335. On May 9, 2008, Dr. John Lindstrom repaired the tear in an arthroscopic procedure. AR 33.

On April 9, 2008, plaintiff saw Dr. Laura Peter for right shoulder pain. Peter referred her for physical therapy and suggested an injection to the right shoulder, which plaintiff declined. Peter prescribed Amitriptyline for plaintiff. AR 260-61. At an April 30, 2008, physical therapy appointment, plaintiff reported that she was doing better and that she had been lifting cement blocks and moving pallets. AR 266. In May, she reported that she had been lifting and shoveling, but that she had not been compliant with her exercises. AR 273.

On November 3, 2008, plaintiff saw Dr. Maniquiz for a regular check-up. He noted she was having persistent headaches and neck pain. He continued the same treatment. AR

540-41. In April 2009, Maniquiz noted that plaintiff continued to have neck, shoulder and knee pain, chronic headaches and depression. AR 581-82.

On June 9, 2009, Maniquiz completed a Residual Functional Capacity Form, indicating plaintiff could lift 20 pounds at a maximum and 10 pounds occasionally with no pushing, pulling, climbing, balancing, stooping, kneeling, crouching or crawling. He concluded that she could not work an eight-hour work day. In Maniquiz's opinion, plaintiff's concentration was severely affected by her pain and depression and she had stamina problems as a result of obesity, bronchitis and poor physical de-conditioning. AR 562-64.

## 2. Mental impairments

On July 22, 2008, plaintiff underwent a neuropsychological evaluation with Dr. Jason E. Kanz. Testing indicated that plaintiff has a verbal Intelligence Quotient of 71, a performance Intelligence Quotient of 78 and full scale Intelligence Quotient of 72. In additional testing, plaintiff scored very low on immediate and delayed memory, immediate and delayed recall, recognition, sentence repetition, arithmetic, digital span, verbal and spatial reasoning and behavioral control. AR 443-46. Kanz noted that, because of plaintiff's level of effort was inconsistent, the results of the evaluation were not entirely reliable or accurate. AR 445. That same day plaintiff underwent a speech language

pathology evaluation in which she demonstrated some problems in memory and recall. AR 451.

On July 22, 2008, plaintiff saw Dr. Linda Kollross for depression. Kollross assessed plaintiff as having a Global Assessment Functioning Score of 50, which indicated serious symptoms or impairments. She referred plaintiff for therapy, and prescribed Citalopram for her depression. At that time, plaintiff denied any alcohol use. AR 449, 486-90. On August 22, 2008, Kollross discontinued the Citalopram and prescribed Zoloft for plaintiff's depression. AR 492. In October 2008, plaintiff saw Dr. Kollross and reported not doing well on the Zoloft and having some flashbacks. She had never sought therapy. Kollross changed plaintiff's medication to Effexor. AR 493-94. On December 4, 2008, Kollross increased plaintiff's Effexor.

On November 5, 2008, plaintiff began therapy with Michael J. Deminsky, a social worker, who diagnosed depression and assessed a Global Assessment Functioning Score of 55, which indicated moderate symptoms or impairments. Plaintiff continued therapy until November 2009. AR 547-61, 797-830.

On March 12, 2009, plaintiff was hospitalized overnight at St. Joseph's Hospital psychiatric unit for depression with suicidal thoughts. AR 683-93, 705, 714-15, 718-93.

### C. Consulting Physicians

On September 8, 2008, state agency physician Syd Foster completed a physical residual functional capacity assessment for plaintiff, listing diagnoses of traumatic brain injury, myofascial pain, degenerative disc disease, right shoulder impairment, left knee pain, and benign paroxysmal positional vertigo. AR 454. Foster found that plaintiff could lift 20 pounds occasionally and 10 pounds frequently, stand or walk six hours in an eight-hour workday and sit six hours in an eight-hour work day with only frequent overhead reaching on right. He noted that plaintiff's subjective complaints were somewhat inconsistent with her daily activities. AR 455-61.

On September 9, 2008, state agency psychologist Michael Mandli, Ph. D., completed a Psychiatric Review Technique for plaintiff, diagnosing organic mental and affective disorders. AR 470. He concluded that plaintiff had mild restrictions of the activities of daily living, mild difficulties in maintaining social functioning, moderate difficulties in maintaining concentration, persistence and pace and no episodes of decompensation. He saw no evidence of the presence of the "C" criteria. AR 480-81.

Also, Mandli completed a mental residual functional capacity assessment for plaintiff, finding her moderately limited in her ability to (1) perform, understand, remember and carry out detailed instructions; (2) maintain attention and concentration for extended periods; (3) complete a normal workday and workweek without interruptions from psychologically based symptoms; (4) perform at a consistent pace without an unreasonable number and length of

rest periods; (5) respond appropriately to changes in work setting and (6) travel in unfamiliar places or use public transportation. AR 462-63. Mandli concluded that plaintiff has mild to moderate memory problems but would be capable of the mental demands of unskilled work. AR 468.

#### D. Hearing Testimony

At the administrative hearing, plaintiff testified that she had last worked as a caregiver for the mentally challenged for six months, but before that she had worked for seven years as a machine operator, making computer boards. AR 35-36. Plaintiff testified that she could no longer work because she had pain everywhere and was depressed. AR 36.

The administrative law judge called Frank Corso to testify as a neutral vocational expert. He testified that plaintiff's past job making computer boards was classified as an electronics worker job (DOT # 726.687-010). The administrative law judge asked Corso to assume an individual of plaintiff's age, education, training and work experience, who could perform the requirements of light work with limited overhead reaching on the right side to frequent and limited to simple tasks and simple work related decisions. He asked whether the individual would be able to perform plaintiff's past work. The expert responded that the individual would be able to perform the electronics worker job, as it is classified in The Dictionary of Occupational Titles as unskilled and light, but not as it was performed by



plaintiff because she had worked at a medium exertional level. AR 42-43.

#### E. Administrative Law Judge's Decision

In reaching his conclusion that plaintiff was not disabled, the administrative law judge performed the five-step sequential analysis in 20 C.F.R. §§ 404.1520 and 416.920. At step one, the administrative law judge found that plaintiff had not engaged in substantial gainful activity since September 11, 2007, her alleged onset date. At step two, he found that plaintiff had severe impairments of chronic headaches, secondary to history of traumatic brain injury with skull fracture and brain hemorrhage; post-traumatic stress disorder; degenerative disc disease of the cervical spine; degenerative arthritis and chronic tear of the right rotator cuff; meniscal tear of the left knee status-post of the arthroscopic repair; and obesity. At step three, the administrative law judge found that plaintiff did not have an impairment or combination of impairments that met or medically equaled any impairment listed in 20 C.F.R. 404, Subpart P, Appendix 1. Specifically, he found that plaintiff's back impairment did not meet Listing 1.04, Disorders of the Spine and that neither her shoulder impairment nor her knee impairment met Listing 1.02, Major Dysfunction of a Joint. Also, he stated he had considered plaintiff's obesity in conjunction with her other severe impairments.

Turning to plaintiff's mental impairments, the administrative law judge concluded

that singly and in combination they did not meet listings 12.02, Organic Mental Disorders, 12.04, Affective Disorders, or 12.06, Anxiety Related Disorders. He found that plaintiff had mild restrictions in the activities of daily living and social functioning, but had moderate difficulties in maintaining concentration, persistence or pace. Also, he found that she had no repeated episodes of decompensation or evidence of the “C” criteria. AR 18-19.

Before reaching step four, the administrative law judge found that plaintiff retained the residual functional capacity to perform light work with only frequently engaging in work activity requiring her to reach overhead with her right extremity. Also, she was limited to work activity requiring only simple tasks with simple work-related decisions. AR 19.

In determining this residual functional capacity, the administrative law judge assessed the credibility of plaintiff’s testimony that she was unable to work in light of 20 C.F.R. 404.1529 and 416.929 and Social Security Rulings 96-4p and 96-7p. He found that the objective medical evidence established that plaintiff had fully recovered from the physical injuries she suffered in the 2007 assault, except that she experienced chronic headaches. He stated that he had considered these headaches and their limiting effects. Also, he considered plaintiff’s degenerative disc disease and right rotator cuff injury and left knee injury when limiting plaintiff to light work with limitations on her ability to perform overhead reaching. AR 21-22. In assessing the limitations of plaintiff’s psychological impairments, the administrative law judge concluded that “the objective findings upon various mental status

examinations are not consistent with an individual who has a disabling mental illness.” AR 23.

In assessing plaintiff’s credibility, the administrative law judge stated that plaintiff’s testimony that she was unable to sustain the physical demands of competitive employment was less than fully credible in light of the objective medical evidence. AR 20. Also, the administrative law judge found plaintiff’s credibility to be undermined by multiple inconsistencies throughout the record. Specifically, he concluded that her statements about her alcohol use and her legal history were not consistent and he noted that her physical activities, including lifting cement blocks and moving pallets and shoveling, were not consistent with an inability to do light work. He concluded that these inconsistencies suggest that the information provided by plaintiff might not be entirely credible. AR 23-24.

Also, the administrative law judge found that the course of plaintiff’s medical treatment did not bolster her credibility with respect to the degree of pain and other subjective complaints. He noted that she failed to have an electromyogram suggested by Dr. Olson and declined a steroid injection suggested by Dr. Peter. Further he noted, that she did not immediately pursue psychotherapy as recommended by her treating psychiatrist. AR 23-24.

In determining plaintiff’s residual functional capacity, the administrative law judge weighed the opinions of plaintiff’s treating doctors. He assigned little weight to Dr.

Maniquiz's opinion that plaintiff could not work because Maniquiz's progress notes and the objective tests did not support his opinion. The administrative law judge gave more weight to the opinion of state agency physician Syd Foster, who found plaintiff capable of performing light work with limitations in her ability to reach overhead with her right arm as a result of degenerative disease in her right shoulder. In determining that plaintiff retained the mental residual functional capacity to perform simple tasks requiring only simple work-related decisions, the administrative law judge relied on the opinion of state agency psychologist Michael Mandli, Ph. D. Also, the administrative law judge reviewed the other evidence in the record and found it did not contain any opinions from treating or examining physicians that plaintiff had greater mental limitations. AR 25.

At step four, the administrative law judge found that plaintiff was able to perform her past work as an electronics worker. He relied on the testimony of the vocational expert that the electronics worker position (DOT #726.687-010) was an unskilled position performed in the national economy at the light level of physical exertion, but performed by plaintiff at the medium level of exertion. He concluded that plaintiff is able to perform the job of electronics worker "as it was actually performed." The administrative law judge found that plaintiff was not disabled because she could perform her past work. AR 25.

## OPINION

### A. Standard of Review

The standard by which a federal court reviews a final decision by the commissioner is well settled: the commissioner's findings of fact are "conclusive" so long as they are supported by "substantial evidence." 42 U.S.C. § 405(g). Substantial evidence means "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." Richardson v. Perales, 402 U.S. 389, 401 (1971). When reviewing the commissioner's findings under § 405(g), the court cannot reconsider facts, re-weigh the evidence, decide questions of credibility or otherwise substitute its own judgment for that of the administrative law judge. Clifford v. Apfel, 227 F.3d 863, 869 (7th Cir. 2000). Thus, where conflicting evidence allows reasonable minds to reach different conclusions about a claimant's disability, the responsibility for the decision falls on the commissioner. Edwards v. Sullivan, 985 F.2d 334, 336 (7th Cir. 1993). Nevertheless, the court must conduct a "critical review of the evidence" before affirming the commissioner's decision, id., and the decision cannot stand if it lacks evidentiary support or "is so poorly articulated as to prevent meaningful review." Steele v. Barnhart, 290 F.3d 936, 940 (7th Cir. 2002). When the administrative law judge denies benefits, she must build a logical and accurate bridge from the evidence to her conclusion. Zurawski v. Halter, 245 F.3d 881, 887 (7th Cir. 2001).

## B Residual Functional Capacity

### 1. Combination of impairments

Plaintiff contends that the administrative law judge made an erroneous residual functional capacity determination because he failed to consider the combination of her impairments. An administrative law judge must consider the aggregate effect of a plaintiff's impairments. Getch v. Astrue, 539 F. 3d 473, 483 (7th Cir. 2008).

In her initial brief, plaintiff makes much of the fact that the administrative law judge determined that she had recovered even though, in fact, she continued to suffer physical impairments, including musculoskeletal impairments and headaches. Because the administrative law judge did consider these impairments in determining her residual functional capacity, it is not material that he did not think they stemmed from the assault.

In her reply brief, plaintiff argues that the administrative law judge failed to consider her headaches in combination with her other impairments. However, the administrative law judge stated that he had considered the limiting effects of her chronic headaches. Also, he stated that he considered plaintiff's obesity in conjunction with her other impairments in determining her residual functional capacity. I am convinced after reviewing the record that the administrative law judge considered the aggregate effect of plaintiff's physical and mental impairments.

## 2. Mental impairments

Next, plaintiff contends that the administrative law judge did not consider her combined mental impairments in combination to determine that she retained the mental residual functional capacity to perform only simple tasks with simple work-related decisions. In reaching this conclusion, the administrative law judge relied on the opinion of state agency psychologist Michael Mandli. Mandli diagnosed organic mental and affective disorders and found that plaintiff had moderate difficulties in maintaining concentration, persistence and pace. He indicated she was moderately limited in her ability to (1) perform, understand, remember and carry out detailed instructions; (2) maintain attention and concentration for extended periods; (3) complete a normal workday and workweek without interruptions from psychologically based symptoms; (4) perform at a consistent pace without an unreasonable number and length of rest periods; (5) respond appropriately to changes in work setting and (6) travel in unfamiliar places or use public transportation. Mandli concluded that despite these limitation and mild to moderate memory problems she would be capable of the mental demands of unskilled work.

Plaintiff argues that Mandli's opinion is suspect because he did not review any of plaintiff mental health records after September 9, 2008. However, the administrative law judge did review the evidence after this date, including her March 2009 one-night hospitalization for depression, and stated that the record did not contain any opinions from

treating or examining physicians that plaintiff had greater mental limitations. Therefore, the evidence in the record, together with Mandli's opinion supports the administrative law judge's mental residual functional capacity assessment.

Plaintiff challenges the administrative law judge's conclusion that she could perform simple tasks requiring simple work-related decisions. In Craft v. Astrue, 539 F.3d 668, 677-78 (7th Cir. 2008), the court of appeals held that a residual functional capacity of 'unskilled' work would be appropriate "where the claimant has the ability to understand, carry out, and remember simple instructions; respond appropriately to supervision, coworkers, and usual work situations; and deal with changes in a routine work setting." In Stewart v. Astrue, 561 F.3d 679, 685 (7th Cir. 2009), the court found that an administrative law judge failed to account for a claimant's moderate limitations in concentration, persistence and pace by posing a hypothetical asking a vocational expert to assume a person who was limited to simple, routine tasks not requiring constant interactions with coworkers or the general public.

District courts have interpreted Stewart to mean that the administrative law judge does not have to include limitations of maintaining concentration, persistence or pace in his residual functional capacity finding or the hypothetical question posed to the expert *if* the record adequately supports the conclusion that the individual can perform unskilled work. Gray v. Astrue, No. 1:09-CV-167, 2009 WL 1228632, \*6 (N. Ind. May 1, 2009) (quoting



O'Connor v. Spinner v. Astrue, No. 4:06-CV-171, 2007 WL 4556741, \*7 (S.D. Ind. Dec, 20, 2007)(ALJ is free to formulate his mental residual functional capacity assessment in terms such as “able to perform simple routine repetitive work” so long as record adequately supports conclusion.) In Jaskowiak v. Astrue, 2009 WL 2424213, \*18 (W.D. Wis. Aug. 6, 2009), I rejected the notion that a limitation to “unskilled” or “simple” work can never be sufficient to reflect a person’s mental limitations, provided the administrative law judge considers mental abilities required of unskilled work and explains his basis for finding that the individual has such abilities.

In this case, the administrative law judge relied on Mandli’s findings that the claimant had the ability to understand, carry out, and remember simple instructions and to respond appropriately to supervision, coworkers, and usual work situations and was moderately limited in dealing with changes in a routine work setting. Also, he considered Mandli’s finding that plaintiff had moderate limitations in concentration and pace. Relying on these findings, the administrative law judge concluded that plaintiff was able to perform the simple tasks made the simple work-related decisions of unskilled work. Overall, I am satisfied that the administrative law judge gave adequate consideration to plaintiff’s concentration limitations and built an accurate and logical bridge to his conclusion that plaintiff’s deficits in this area would not prevent her from performing unskilled work.

### 3. Treating physician's opinion

Plaintiff contends that the administrative law judge erred in discounting the opinion of plaintiff's treating physician, Dr. Maniquiz. Although an administrative law judge must consider all medical opinions of record, he is not bound by those opinions. Haynes v. Barnhart, 416 F.3d 621, 630 (7th Cir. 2005). "[T]he weight properly to be given to testimony or other evidence of a treating physician depends on circumstances." Hofslien v. Barnhart, 439 F.3d 375, 377 (7th Cir. 2006). When a treating physician's opinion is well supported and no evidence exists to contradict it, the administrative law judge has no basis on which to refuse to accept the opinion. Id.; 20 C.F.R. § 404.1527(d)(2). An administrative law judge must provide "good reasons" for the weight he gives a treating source opinion, id., and must base his decision on substantial evidence and not mere speculation. White v. Apfel, 167 F.3d 369, 375 (7th Cir. 1999).

The administrative law judge gave little weight to Dr. Maniquiz's opinion that plaintiff could not work because he found the opinion not supported by the objective tests and his own treatment notes. The rule that an administrative law judge must accept the opinion of a treating physician that is well supported does not come into play in this case. Maniquiz might have been plaintiff's treating physician, but the record shows that his opinion was not supported by either the objective tests or his own treatment notes, which contradict his stated opinion that plaintiff could not work.

The administrative law judge gave good reasons for discounting Dr. Maniquiz's opinion: the magnetic resonance imaging scans showed minimal cervical disc disease and degenerative disease of the right shoulder joint. An administrative law judge is not allowed to "play doctor" by interpreting medical notes and forming her own opinions about the severity of conditions or diseases, but one does not have to be a doctor to look skeptically at plaintiff's complaints of pain in light of the objective tests showing minimal cervical disease. As the administrative law judge noted, Maniquiz's opinion of plaintiff's functional capacity was inconsistent with the doctor's own treatment records, which did not support the severe limitations he assessed.

In sum, the administrative law judge provided good reasons, supported by substantial evidence in the record, for not giving controlling weight to Maniquiz's opinion. Hofslie, 439 F.3d at 377 (administrative law judge determines how much weight to give various medical opinions and court will uphold that decision if it is supported by substantial evidence). The administrative law judge did not err in discounting Maniquiz opinion that plaintiff was disabled.

#### 4. Credibility

Finally, plaintiff contends that in determining plaintiff's residual functional capacity the administrative law judge erred in assessing plaintiff's credibility. Under Social Security

Ruling 96-7p, an administrative law judge must follow a two-step process in evaluating an individual's own description of his or her impairments: 1) determine whether an "underlying medically determinable physical or mental impairment" could reasonably be expected to produce the individual's pain or other symptoms; and 2) if such a determination is made, evaluate the "intensity, persistence, and limiting effects of the individual's symptoms to determine the extent to which the symptoms limit the individual's ability to do basic work activities." Social Security Ruling 96-7p, 1996 WL 374186, \*1 (1996); see also Scheck v. Barnhart, 357 F.3d 697, 702 (7th Cir. 2004). When conducting this evaluation, the administrative law judge may not reject the claimant's statements regarding her symptoms on the sole ground that the statements are not substantiated by objective medical evidence. Instead, the administrative law judge must consider the entire case record to determine whether the individual's statements are credible. Relevant factors the administrative law judge must evaluate are the individual's daily activities; the location, duration, frequency and intensity of the individual's pain or other symptoms; factors that precipitate and aggravate the symptoms; the type, dosage, effectiveness and side effects of any medication the individual takes or has taken to alleviate pain or other symptoms; other treatment or measures taken for relief of pain; the individual's prior work record and efforts to work; and any other factors concerning the individual's functional limitations and restrictions. SSR 96-7p; 20 C.F.R. §§ 404.1529(c), 416.929(c). See also Scheck, 357 F.3d at 703; Zurawski, 245

F.3d at 887.

An administrative law judge's credibility determination is given special deference because that judge is in the best position to see and hear the witness and to determine credibility. Shramek v. Apfel, 226 F.3d 809, 812 (7th Cir. 2000). In general, an administrative law judge's credibility determination will be upheld unless it is "patently wrong." Prochaska v. Barnhart, 454 F.3d 731, 738 (7th Cir. 2004); Sims v. Barnhart, 442 F.3d 536, 538 (7th Cir. 2006) ("Credibility determinations can rarely be disturbed by a reviewing court, lacking as it does the opportunity to observe the claimant testifying."). However, the administrative law judge still must build an accurate and logical bridge between the evidence and the result. Shramek, 226 F.3d at 811. The court will affirm a credibility determination as long as the administrative law judge gives specific reasons that are supported by the record. Skarbeck v. Barnhart, 390 F. 3d 500, 505 (7th Cir. 2004).

In recent opinions, the Court of Appeals for the Seventh Circuit has expressed criticism of the Social Security Administration's credibility assessments. The court has said that it is not enough for the administrative law judge to say only that "the claimant's statements concerning the intensity, persistence and limiting effects of these symptoms are not entirely credible." Assessments like these fail to identify which statements are not credible and what exactly "not entirely" is meant to signify. Martinez v. Astrue, 630 F.3d 693, 694 (7th Cir. 2011).

In this case, the administrative law judge made a detailed credibility finding. He relied on objective medical evidence when he rejected plaintiff's testimony that she is unable to sustain the physical demands of competitive employment. Also he considered plaintiff's physical activities, her course of treatment and her inconsistent statements through out the record. Initially, plaintiff argues that this credibility assessment is flawed because her sporadic physical activities did not mean she was able to work. However, plaintiff's sporadic physical activities of lifting heavy items belied asserted inability to lift up to 20 pounds occasionally and 10 pounds frequently.

She also objects to the administrative law judge's consideration of her alcohol use. However, it was not her use of alcohol that the administrative law judge considered, but her inconsistent statements about that use.

In her reply brief, plaintiff switches gears and says the credibility finding was flawed because the administrative law judge did not consider the side effects of her medications. However, there is no evidence in the record that plaintiff experienced side effects from her medication.

The administrative law judge gave specific reasons for not believing plaintiff's statement that she could not work. And these reasons are supported by the record. I am persuaded that the administrative law judge built an accurate and logical bridge from the evidence to his conclusion that plaintiff's subjective complaints about her inability to work

were not worthy of belief. Shramek, 226 F.3d at 811.

#### D. Step Four

Plaintiff argues that the administrative law judge erred in finding that she could perform her past relevant work. “To determine whether a claimant can perform his past relevant work, an administrative law judge must compare the demands of the claimant’s past occupation with his or her present capacity.” Steward v. Bowen, 858 F.2d 1295, 1299-1300 (7th Cir. 1988); Social Security Ruling 82-62 (administrative law judge must obtain sufficient information about skill level, exertional demands and nonexertional demands of claimant’s past work to permit decision as to whether claimant can return to that work). In making this comparison, the adjudicator need not consider only the functional demands and duties of the job as the claimant actually performed it, but may consider the functional demands of the job as generally required by employers in the national economy. Smith v. Barnhart, 388 F.3d 251, 253 (7th Cir. 2004); Steward, 858 F.2d at 1301. Under Social Security Ruling 82-61(2), a claimant who retains the residual functional capacity to perform the functional demands and job duties of a particular past relevant job as she actually performed it, the claimant should be found “not disabled.” Alternatively, under § (3) of 82-61, a claimant who retains the capacity to perform the functional demands and job duties generally required in such jobs should be found to be “not disabled.” A claimant may be unable to perform “the excessive functional demands or job duties actually required in the

former job but will be considered ‘not disabled’ if she can perform the functional demands and job duties as generally required by employers throughout the economy.” In this case, the administrative law judge found that plaintiff was “not disabled” because she could perform the jobs as electronics worker as generally required by employers in the economy.

Plaintiff argues that in reaching this conclusion, the administrative law judge violated Social Security Ruling 00-4p because he did not verify that plaintiff’s past relevant work was consistent with The Dictionary of Occupational Titles. It is undisputed that SSR 00-4p imposes on the administrative law judge an affirmative duty to ask the vocational expert whether the evidence conflicts with the information in the Dictionary. If the expert identifies a conflict or the evidence provided by the expert seems on its face to conflict with information in the Dictionary, the administrative law judge must obtain a reasonable explanation from the expert for the conflict. 20 C.F.R. § 416.966(e); SSR 00-4p; Overman v. Astrue, 546 F. 3d 456, 464 (7th Cir. 2008). In the absence of an apparent conflict, a vocational expert’s testimony, even if little more than a “bottom line,” may satisfy the commissioner’s burden at step five if no one questions the basis of the vocational expert’s conclusions at the hearing. Id. at 465.

In this case, it is the expert’s classification of plaintiff’s past work as an electronics worker that plaintiff is challenging. The only evidence concerning plaintiff’s past work was her testimony that she was a machine operator, making computer boards. In making the



argument that her job was not that of an electronics worker, she does not explain what tasks she performed outside that classification. Rather, she merely lists other jobs in The Dictionary that she says are closer to her past work. These jobs are electronics technician (DOT #003.161-014), electroless plater, (DOT #501.685-022), plasma etcher, printed circuit boards (DOT #590.685-094), assembler and tester, electronics (office machines), (DOT #710.281-010), electronic tester (DOT # 26.684-026) and printed circuit board component tester (DOT #726.684.078). Plaintiff makes no showing that her past work was closer to these skilled occupations than to the job of electronics worker (DOT # 726.687-010). Further, she did not object at the time of the hearing to the expert's conclusion that her past work was consistent with the description of electronics worker in The Dictionary. I am not persuaded that the administrative law judge's failure to ask the expert whether his testimony was consistent with The Dictionary was error where there was no apparent conflict.

In her reply brief, plaintiff raises a new step four argument: that the administrative law judge erred when he did not determine whether plaintiff retained the residual functional capacity to perform her past work. This argument is unpersuasive because the administrative law judge asked the expert whether an individual that retained plaintiff's functional capacity could perform the job of electronics worker as classified in The Dictionary. This is substantial evidence plaintiff could perform her past work as described in The Dictionary,

as light unskilled work, even though she could not perform it as she had actually performed it at the medium exertional level. Because plaintiff could perform her past work, she was not disabled.

#### ORDER

IT IS ORDERED that the decision of defendant Michael J. Astrue, Commissioner of Social Security, is AFFIRMED and plaintiff Rebecca M. Lorenz's appeal is DISMISSED. The clerk of court is directed to enter judgment in favor of defendant and close this case.

Entered this 29th day of August, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge