IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

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MARYLU GROSKREUTZ,

                                          ORDER

                Plaintiff,

                                        02-C-0454-C

       v.

JO ANNE B. BARNHART,
Commission of Social Security,

                Defendant.

- -

Plaintiff Marylu Groskreutz has filed objections to the report and recommendation
entered by the United States Magistrate Judge on July16, 2003. The magistrate judge
acknowledged that the question of plaintiff's entitlement to disability insurance benefits was
a close one but concluded that the balance tipped in favor of defendant Jo Anne B. Barnhart.
For that reason, he recommended to the court that it affirm defendant's denial of plaintiff's
application for disability insurance benefits under §§ 416(i) and 423 of the Social Security
Act. After reading the magistrate judge's report, the briefs, plaintiff's objections and the
relevant portions of the record, I am persuaded that the magistrate judge is correct. Despite
the deficiencies in the administrative law judge's handling of the matter, his decision is

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supported by substantial evidence in the record.

The magistrate judge addressed all of the deficiencies in his report and dealt with them comprehensively. It is not necessary to add to his analysis of defendant's decision, except to note my disagreement with plaintiff's assertion that the administrative law judge erred in relying on certain inconsistencies in plaintiff's testimony in finding that plaintiff was not credible. Plaintiff challenges the administrative law judge's statement that plaintiff had testified to having continuous spasms and the record did not support her testimony. Plaintiff does not deny that the record shows no evidence of continuous spasms but argues that it does document "multiple trigger points." This is not a refutation of the finding. Moreover, the administrative law judge noted that plaintiff was regularly driving her son to school, making it unlikely that she suffered continuous spasms. The administrative law judge referred to plaintiff's improbable testimony about her weight gain and her testimony about why she did not have shoulder surgery as reasons for doubting the accuracy of her testimony about her physical pain. This was not improper: the testimony shows that plaintiff is not an accurate historian of her physical conditions. I do not mean to suggest that she was giving false testimony; given her diagnosis of generalized anxiety disorder, it is not surprising that she overstates her medical history and the degree of pain she suffers. See Diagnostic and Statistical Manual of Mental Disorders at 680 (4th Ed. Text Revision 2000) (adjustment disorders are associated with somatic complaints). Still, her testimony gave the

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administrative law judge good reason not to find her credible. Once he made that finding, he had reason to doubt the opinions of the physicians who relied upon her own reports of her condition to make their determinations of her capacity for work.

Also, I agree with the magistrate judge that the law of this circuit requires the claimant to identify a conflict between the Dictionary of Occupational Titles and the testimony of a vocational expert. When plaintiff made no objection at the hearing to the apparent conflict in her case, the administrative law judge was not obligated to resolve the conflict (which is not to say he should not take the initiative to do so, if only to make an accurate record). In any event, as the magistrate judge noted, it is clear from the transcript that the vocational expert was relying on a another source besides the Dictionary of Occupational Titles when he testified about jobs available in Wisconsin for a person with plaintiff's work limitations.

ORDER

IT IS ORDERED that the recommendation of the United States Magistrate Judge to affirm the decision of defendant Jo Anne B. Barnhart to deny plaintiff Marylu Groskreutz's application for disability benefits under § 416(i) and 423 of the Social Security Act is

ADOPTED and the decision is AFFIRMED.

Entered this 6th day of August, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge