

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

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JEANNE R. JOHNSON,

Plaintiff,

v.

JO ANNE B. BARNHART,  
Commission of Social Security,

Defendant.  
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ORDER

05-C-0129-C

Plaintiff Jeanne R. Johnson has filed objections to the report and recommendation entered on November 29, 2005 by the United States Magistrate Judge. The magistrate judge recommended that the court affirm defendant Jo Anne B. Barnhart's denial of plaintiff's application for disability insurance benefits. Plaintiff objects on several grounds: (1) the magistrate judge ignored plaintiff's mental impairments and the administrative law judge's failure to analyze those impairments properly and their effects upon plaintiff's ability to work and to incorporate them into the residual functional capacity determination; (2) The magistrate judge erred in finding that the administrative law judge acted properly in weighing the opinions of the physicians and in determining plaintiff's residual functional capacity; and

(3) the magistrate judge erred in finding that the record contained adequate support for the administrative law judge's credibility finding.

I am not persuaded that any of plaintiff's objections require reversal or remand of defendant's determination that plaintiff is not eligible for disability insurance benefits. The magistrate judge did not ignore plaintiff's mental impairments but determined that the opinions of psychiatrist William Weggel and rheumatologist Gina Adel did not conform to plaintiff's testimony that her medications had improved her depression and anxiety or to Dr. Adel's observations of plaintiff's ability to walk or plaintiff's reports of her ability to stand and use her left shoulder when cooking, gardening, vacuuming and emptying litter boxes. Neither the magistrate judge nor the administrative law judge assumed that plaintiff performed these activities every day or that she would have the capability of doing so. Nevertheless, it was reasonable for them to assume that if her pain and inability to use her shoulder or to stand for any period of time were as severe as she claimed, she would be unable to perform these activities at any time. It was not error for the administrative law judge to reject the Weggel and Adel opinions to the extent that these doctors concluded that plaintiff was unable to undertake any substantial gainful activity.

Once the administrative law judge rejected the Weggel and Adel opinions as unpersuasive, he was not required to take them into account in framing his hypothetical questions to the vocational expert. The questions he did ask were not erroneous. The record

evidence did not support a limitation based on plaintiff's supposed difficulty tolerating the stress and pressure of full time, competitive employment. As the magistrate judge found, the only support for this limitation was Marcus Desmonde's prediction to that effect, which was suspect because it was undermined by the rest of his report, in which he said that plaintiff "does appear capable of interacting appropriately with supervisors, co-workers and the general public." AR 251.

Finally, it was not error for the magistrate judge to find that the record supported the administrative law judge's finding that plaintiff's reports of pain and limitations were not wholly credible. Although plaintiff did have some evidence of real impairments, such as abdominal problems and left shoulder impingement syndrome, medical examinations consistently failed to uncover any objective basis for her complaints of joint pain. Despite thorough examinations, none of the four specialists that examined her found features of inflammatory arthritis, connective tissue disease, degenerative changes that were anything but minimal or any impairment of her range of motion. Plaintiff did have a problem with her left shoulder; that problem was treated successfully by bursoscopy. Her abdominal problems were controlled by medication.

I agree with the magistrate judge that the record contains substantial evidence to support the administrative law judge's decision that plaintiff is not entitled to disability insurance benefits.

ORDER

IT IS ORDERED that the magistrate judge's November 29, 2005 recommendation is ADOPTED and defendant Jo Anne B. Barnhart's decision to deny plaintiff Jeanne R. Johnson's application for disability insurance benefits is AFFIRMED.

Entered this 10th day of February, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge