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

JULIE A. BUGELLA,

Plaintiff, ORDER

v. 3:07-cv-00269-bbc

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

On November 21, 2007, I entered judgment affirming a decision by defendant Commissioner of Social Security finding that plaintiff Julie Bugella was disabled as of March 1, 2005, but not before that date. Plaintiff has now filed a motion to alter or amend the judgment pursuant to Fed. R. Civ. P. 59(e). She contends that I misinterpreted Social Security Ruling 83-20, erred in finding that the evidence contradicted plaintiff's allegation that she was disabled on July 30, 2000, erred in finding that the administrative law judge's rationale could reasonably be inferred from his decision and failed to address her argument that the administrative law judge's hypothetical question did not adequately account for her mental limitations.

The purpose of a Rule 59 motion is to bring to the court's attention newly discovered evidence or a manifest error of law or fact. E.g., Bordelon v. Chicago School Reform Bd. of Trustees, 233 F.3d 524, 529 (7th Cir. 2000). It is not intended as an opportunity to reargue

the merits of a case. Neal v. Newspaper Holdings, Inc., 349 F.3d 363, 368 (7th Cir. 2003). Plaintiff makes much of the fact that I faulted her for failing to argue in support of an onset date other than the date she alleged originally, contending that I misunderstood SSR 83-20 in doing so. Plaintiff is incorrect. I understood that plaintiff was free to argue in support of her original alleged onset date of July 30, 2000 and that she bore no burden to propose an alternative. As I found in the November 21, 2007 order, however, plaintiff's alleged onset date was not supported by substantial evidence in the record. (In her motion to reconsider, plaintiff challenges this conclusion; however, none of her arguments convince me that I reached this conclusion in error.) I pointed out plaintiff's failure to propose an alternative date merely to show that, as a practical matter, a different outcome was not likely to result on remand.

Plaintiff also argues that I should have remanded the case because the administrative law judge did not articulate his rationale in support of his choice of onset date. This is little more than a restatement of arguments previously made. As explained in the November 21 order, the administrative law judge's reasoning was not transparent, but it was discernible.

Finally, plaintiff contends that I overlooked her argument that the administrative law judge erred in failing to include verbatim the findings of the state agency consulting psychologists into his residual functional capacity assessment and corresponding hypothetical question. Plaintiff asserts that she made this argument on pages 26-27 of her

opening brief. That assertion is frivolous. Plaintiff made the general statement that the administrative law judge failed to "provide even minimal explanation of how each [medical] opinion or portions thereof contributed to the RFC finding." Plt.'s Br. In Supp. of Mot. for Summary Judgment, dkt. #9, at 25. However, the only medical opinions that she addressed specifically on those pages were those provided by Dr. Gilberg and Dr. Carlsen, plaintiff's treating physicians. Nowhere in her brief did she make the argument that the administrative law judge was required to adopt verbatim the mental limitations endorsed by the state agency physicians on their mental residual functional capacity assessment forms, as she suggests in her motion for reconsideration. In any case, that argument would not have been a basis for remand. Kusilek v. Barnhart, 175 Fed. Appx. 68, 2006 WL 925033 (7th Cir. 2006) (citing cases in which court has upheld administrative law judges' findings that plaintiffs with mental limitations can perform "simple" or "semiskilled" work in approving finding that commissioner was substantially justified in defending administrative law judge's hypothetical) (nonprecedential disposition).

In sum, none of plaintiff's arguments convince me that I committed an error of law or fact in affirming the commissioner's decision. Accordingly, her motion to alter or amend the judgment will be denied.

ORDER

IT IS ORDERED that the motion of plaintiff Julie Bugella to alter or amend the judgment pursuant to Fed. R. Civ. P. 59(e) is DENIED.

Entered this 11th day of December, 2007.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge