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

TAMMIE LYNN ROBSON,

Plaintiff,

v.

ANDREW SAUL,
Commissioner of Social Security,

Defendant.

OPINION AND ORDER

19-cv-717-wmc

Plaintiff Tammie Lynn Robson seeks judicial review of the final decision of the Commissioner of the Social Security Administration denying her claim for disability insurance benefits and supplemental security income under the Social Security Act, 42 U.S.C. § 405(g). Robson argues that the administrative law judge who denied her claim at the administrative level failed (1) to properly evaluate the medical evidence and (2) to provide a reasoned explanation for her conclusions concerning Robson's pace limitations. For the reasons that follow, the Commissioner's decision will be affirmed.

UNDISPUTED FACTS[1]

A. Procedural History

On December 23, 2016, Robson filed applications for disability insurance benefits and supplemental security income under Titles II and XVI of the Social Security Act, respectively. She alleged disability since January 1, 2014, from migraines, depression, anxiety and bipolar disorder. After the state disability agency denied her application

[1] The following facts are drawn from the Administrative Record ("AR").

initially and on reconsideration, Robson requested a hearing, at which she appeared by videoconference with counsel on August 1, 2018. Robson testified, as did Thomas Heiman, a vocational expert. On November 9, 2018, the administrative law judge ("ALJ") issued a decision finding that Robson was not under a disability as defined in the Social Security Act. The Appeals Council subsequently denied review, making the ALJ's decision the final decision of the Commissioner for purposes of judicial review. *Jones v. Astrue*, 623 F.3d 1155, 1160 (7th Cir. 2010).

B. Hearing Testimony

Robson testified that her most severe problems are anxiety and migraines, preventing her from working because she loses focus and gets anxiety in crowds. (AR 302, 313.) She further described suffering panic attacks five times a week that last about 20 minutes, during which she "freezes up" and must sit and rest. (AR 314.) Robson was not sure how long she had been having such attacks, nor what triggered them. (AR 314-15.) She also testified to napping for at least five hours a day because insomnia prevents her from sleeping at night. (AR 315-16.)

Heiman, an impartial vocational expert ("VE"), testified about the strength and skill requirements of Robson's various past work and answered a series of hypotheticals posed by the ALJ. Specifically, she asked him to opine on what jobs were available to an individual of Robson's age, education, and past work experience, and who had various combinations of physical and mental restrictions. (AR 320-24.)

C. Overview of Medical Evidence[2]

Robson has received mental health services, intermittently, from the Monroe County Department of Human Services since at least February 12, 2013. (AR 899-963.) She has been diagnosed with anxiety and depression, and she has a past diagnosis of bipolar disorder. Robson was treated by a psychiatrist, Donald Fischer, M.D., until approximately January 2016, when her care was transferred to a psychiatric nurse practitioner, Deb Day. From that date forward, Nurse Day treated Robson approximately every three months.[3]

Day's notes generally reflect that Robson's symptoms waxed and waned, typically in connection with situational stressors. For example, on March 28, 2016, Robson told Day that she felt depressed, was not sleeping well, and was having difficulty keeping up with her courses at a community college. She also reported having some anxiety in the classroom. As for the results of her mental status exam in particular, Day found Robson was engaged in the conversation and her thought process was clear, logical, and goal oriented, although her responses were slow and her affect appeared somewhat flat. Day adjusted her medications and scheduled a follow up in three weeks. (AR 906-07.) Because her anxiety was situational, Day also emphasized the importance of continuing to work with her therapist on coping skills. At a follow up visit on April 22, Day observed that Robson's affect was brighter, and Robson reported her mood was "pretty good." Robson

[2]Because plaintiff raises no challenge to the ALJ's evaluation of her physical impairments, the court will review only the evidence related to her mental impairments.

[3]Robson also received psychotherapy intermittently from a clinical social worker, William Adams, at the Monroe County Department of Human Services. (AR 910.) After Adams retired in June 2017, Robson did not see another therapist until May 22, 2018, when she saw counselor Vicki Riley. (AR 1156.)

also told Day that she was enjoying her summer and was more active in the house. Accordingly, Day maintained Robson's medications as previously prescribed. (AR 904-05.)

On July 15, 2016, however, Robson told Day that she was on break from school, after withdrawing the preceding semester because of course demands. Day further described Robson's mood as somewhat down and depressed, with some crying episodes and feelings of anger. Still, Day observed that Robson's affect was pleasant and her thoughts were logical, clear, and goal directed. In response to Robson's concern that her current medications were not working well for her depressive symptoms, Day prescribed a medication change. (AR 903.) Later, in July 2016, Robson told Day that she was now looking forward to returning to school in the fall, and the new medication had been helping her symptoms. Day further noted that Robson was neatly dressed and engaged in the interview, and she again described her mood as "pretty good," with no anger or explosive issues, nor any suicidal ideation. Indeed, at that time, her thoughts were logical, clear, and goal directed without any symptoms suggesting psychosis. (AR 901.)

Then, in November 2016, Robson told Day that she was having some significant problems with anxiety and panic attacks since starting a job at Walmart. (AR 1208-09.) To Day, Robson appeared anxious, although she had a pleasant affect and logical, clear, and goal directed thoughts. (AR 1209.) Observing that Robson had not been taking her anti-anxiety medication regularly, Day adjusted Robson's medications and recommended that she return to therapy. (AR 1208.)

In February 2017, Robson told Day that her mood was "all right" and that she had

not been excessively crying, teary, angry, or explosive. (AR 1204.) She was also looking for work and applying for disability benefits. (Id.) Day observed that Robson looked brighter and more engaged, her affect was pleasant, and her thoughts were logical, clear, and goal directed.

In May 2017, Robson again told Day that: her mood was pretty good; she was having fewer issues with crying and teariness; and she was working full time driving a van. (AR 1202.) Again, Day observed that Robson had a pleasant affect and was logical, clear, and goal directed thoughts with no evidence of psychosis. (AR 1202.) Subsequent visits with Day in 2018 reflect similar findings. (AR 1189-90) (January 2018); 1186-87 (March 2018); 1183-84 (May 2018).)

D. Medical Source Opinions[4]

1. Examining Psychologist Peggy Dennison, Ph.D.

At the request of the local disability agency, psychologist Peggy Dennison, Ph.D., conducted a one-time examination of Robson on April 12, 2017. Dennison observed that: Robson's mood was mildly tense and self-conscious, but otherwise appropriate; her affect was flat; she was oriented to time, place, and person; she had adequate remote and recent memory; she had good insight and judgment; she could recall three out of three words after

[4]In addition to the medical opinions outlined here, the record contains a report from Dr. Katie Fassbinder, a psychiatrist, who concluded after examining plaintiff that she could not sustain competitive employment. Although plaintiff quotes from Dr. Fassbinder's report in the fact section of her brief, she does not refer to the report in the argument section or challenge the ALJ's decision to give this opinion no weight. Because plaintiff has not developed any argument concerning Dr. Fassbinder's report, the court will not address it further. *Schaefer v. Universal Scaffolding & Equip., LLC*, 839 F.3d 599, 607 (7th Cir. 2016) ("Perfunctory and undeveloped arguments are waived[.]").

five and ten minute delays, repeat five digits forward and three in reverse, and spell WORLD forward and backward very slowly. Robson also showed adequate ability to maintain concentration on simple sequential tasks such as reciting the alphabet and counting backward from 20 to 1 with no errors. Based on her evaluation, Dennison diagnosed Robson with a persistent, depressive disorder. Assessing her capacity for work, Dennison wrote:

> At the present time, Ms. Robson could understand, remember and carry out simple instructions psychologically. She could maintain concentration for 30 minutes but it is unknown if she could do so for an entire day. Her attention span is short and her work pace might also be compromised. Despite her belief that she cannot work, she probably could withstand routine work stresses, but perhaps not intense stress. She likely could adapt to changes. Perhaps with adjustments she may be able to withstand routine work stresses.

(AR 1085.)

2. State Agency Psychologists Kathleen O'Brien, Ph.D., and Darrell Snyder, Ph.D

In June 2017, state agency psychologist Kathleen O'Brien, Ph.D., reviewed the record, including Dennison's report, and completed a Mental Residual Functional Capacity Assessment of Robson. (AR 525-27.) In the worksheet portion of the MRFCA, O'Brien checked boxes indicating that Robson had no limitations in the broad functional areas of social interaction or adaptation. In the areas of understanding and memory and sustained concentration and persistence, O'Brien checked boxes indicating that Robson was "not significantly limited" in most areas and was "moderately limited" in three areas. Asked to provide a bottom-line narrative of what Robson could and could not do in the workplace,

O'Brien found Robson could perform the simple, routine tasks of unskilled work on a sustained basis. (AR 526.) In support of these conclusions, O'Brien noted records showing that medication helped Robson's symptoms; Dennison's April 2017 consultative examination, which showed mostly normal findings including maintained concentration; and Robson's activities. (AR 527.)

In November 2017, a second state agency psychologist, Darrell Snyder, Ph.D., reviewed the record on reconsideration, reaching many of the same conclusions as O'Brien. In his narrative, Snyder opined that Robson could understand, learn, remember, perform, and sustain simple tasks but would have some difficulty facing challenges and stresses. (AR 552.) Like O'Brien, however, Snyder concluded that Robson could perform the simple, routine tasks of unskilled work on a sustained basis. (AR 554.)

3. Treating Nurse Deb Day, N.P.

On December 5, 2017, Robson's treating nurse practitioner Day also completed a Mental Work Capacity Questionnaire for Robson. Day indicated that Robson had major depressive disorder and anxiety disorder, with agoraphobia and panic symptoms. As a result of these impairments, Day further opined that Robson had: marked difficulties in social functioning; marked difficulties in maintaining concentration, persistence, or pace; and four or more episodes of decompensation in the past 12 months, each of which were at least two weeks duration. (AR 1108.) Day also found that Robson was unable to perform even "low stress" jobs, and was unable to function independently outside of her home. (*Id.*)

E. ALJ's Decision

Applying the Commissioner's five-step sequential evaluation process, 20 C.F.R. §§ 404.1520 and 416.920, the ALJ found at step one that Robson had not engaged in substantial gainful activity after her alleged onset date, and at step two that she had the severe impairments of diabetes, migraines, obesity, depression, anxiety, and bipolar disorder.

At step three, the ALJ further determined that none of Robson's impairments, singly or in combination, were severe enough to meet the criteria of any impairment listed in 20 C.F.R. Part 404, Subpart P, App. 1. As part of this analysis, and in accordance with the Commissioner's Revised Criteria for Evaluating Mental Disorders, 81 Fed. Reg. 66138, 2016 WL 5341732 (Sept. 26, 2016), the ALJ specifically assessed Robson's mental functioning in four broad areas: (1) understanding, remembering, or applying information; (2) interacting with others; (3) concentrating, persisting, or maintaining pace; and (4) adapting or managing oneself. As relevant here, the ALJ rated Robson's functioning in the area of concentrating, persisting or maintaining pace in particular as "moderate."[5]

In support of this latter finding, the ALJ relied heavily on the fact that Robson had worked part time as a cab driver in the Fall of 2017, observing that

> Even minimal operation of a motor vehicle requires substantial attention and concentration, in order to understand, remember, and carry out complex functions, and to integrate such complex functions into independent situational

[5] In rating the claimant's functioning in these areas, the adjudicator uses a five-point scale ranging from "no limitation" to "extreme limitation." 20 C.F.R. §§ 404.1520a(c)(4), 416.920a(c)(4). The Commissioner has defined a "moderate limitation" as meaning that the claimant's functioning "in this area independently, appropriately, effectively, and on a sustained basis is fair." 20 C.F.R., Pt. 404, Subpt. P, App. 1 § 12.00(F)(2).

> awareness and projective judgment every few seconds. It is certainly not a simple and routine set of functions . . . however, the record does reflect some issues [with] pace, as she lost a job working at a cleaners, for not being fast enough, and had some issues with speed when working for Northern Engraving.

(AR 257 (citations omitted)). The ALJ also noted that the conclusion that Robson had moderate limitation in concentration, persistence, or maintaining pace was supported by the opinions of the two state agency psychologists. (AR 257.)

As a predicate to her findings at steps four and five, the ALJ further assessed Robson's residual functional capacity ("RFC"), and determined that she was able to perform light work (she could sit, stand, and walk (each) for six hours (each) for an eight-hour workday and could lift, carry, push, or pull up to 20 pounds occasionally and 10 pounds frequently), with certain postural and environmental limitations. Addressing Robson's mental limitations, the ALJ further found that Robson was "able to understand, remember and carry out simple, routine tasks, make simple work-related decisions, and adapt to routine workplace changes, commensurate with unskilled work activities, with a specific vocational preparation (SVP) of 2 or less." However, she found, Robson could *not*

- Perform fast paced or hourly production rate pace quotas;
- Tolerate more than occasional interaction with supervisors and coworkers; or
- Tolerate more than brief, superficial contact with the public.

(AR 258.)

The ALJ explained that in adopting her RFC, she gave only "partial weight" to Dennison's opinion, finding that her report "involves a great degree of conjecture." (AR

261.) At the same time, the ALJ noted that the state agency psychological consultants had relied on Dennison's report in formulating their opinions, causing her to include, based on Dennison's findings, a limitation in the RFC restricting Robson from work involving any fast paced or hourly production rate pace quotas. (AR 261.) The ALJ further explained that she had afforded great weight to the opinions of the state agency psychologists regarding Robson's continuing ability to learn, remember, perform, and sustain simple tasks, as well as have some difficulty facing challenges and stresses. The ALJ expressly found the agency psychologists' opinions on these limitations to be internally consistent and well supported by a reasonable explanation of the available evidence. To account for the agency psychologists' concerns about stress, the ALJ also restricted Robson from any fast paced or production rate paced quotas and from excessive interactions with others. (AR 261.) Ultimately, however, the ALJ gave no weight to Nurse Day's December 5, 2017, Mental Work Capacity Questionnaire, explaining that her treatment notes did not support it. The ALJ further found Day's report inconsistent with the fact that "the claimant has not needed emergency care and she was able to work as a cab driver, and sell Avon, reflecting an ability to leave the home and interact with others, including strangers." (AR 259-60.)

Overall, the ALJ found the record did not support Robson's assertions of total disability. Among other things, the ALJ noted that: Robson had not engaged in regular therapy; her medications had not changed for a long period of time; her mental symptoms were generally situational and related to financial issues; she appeared to interact appropriately with family, friends, and others; and she was able to work part time as a cab

driver. (AR 259-60.) Relying on the VE's response at the hearing to hypothetical questions incorporating the same limitations that the ALJ ultimately included in her formal RFC assessment, she further found at steps four and five that although Robson would be unable to return to any of her past jobs (as cashier, file clerk, receptionist, and hand packager), Robson could make a vocational adjustment to various jobs existing in significant numbers in the national economy, including cleaner/housekeeper, photocopy machine operator, and mail clerk. (AR 262-63.) Accordingly, the ALJ found that Robson was not disabled and, therefore, not entitled to either DIB or SSI under the Social Security Act.

OPINION

Judicial review of a final decision by the Social Security Commissioner is authorized by 42 U.S.C. § 405(g). An ALJ's findings of fact are considered "conclusive," so long as they are supported by "substantial evidence." § 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). In reviewing the Commissioner's findings, the court cannot reconsider facts, re-weigh the evidence, decide questions of credibility or otherwise substitute its own judgment for that of the ALJ. *Clifford v. Apfel*, 227 F.3d 863, 869 (7th Cir. 2000). At the same time, the court must conduct a "critical review of the evidence" before affirming the Commissioner's decision, *Edwards v. Sullivan*, 985 F.2d 334, 336 (7th Cir. 1993), and an ALJ must articulate his or her analysis of the evidence in order to allow the reviewing court to trace the path of their reasoning and to be assured that the ALJ considered the important evidence. *See Scott v. Barnhart*, 297 F.3d 589, 595 (7th Cir. 2002); *Diaz v. Chater*, 55 F.3d 300, 307 (7th Cir. 1995). If the Commissioner's decision

lacks evidentiary support or adequate discussion of the issues, then the court must remand the matter for further proceedings. *Villano v. Astrue*, 556 F.3d 558, 562 (7th Cir. 2009).

Plaintiff raises two main challenges to the ALJ's decision, both of which criticize the ALJ's mental RFC assessment. First, plaintiff argues that the ALJ improperly weighed the medical opinions in arriving at her findings concerning plaintiff's limitations in concentration, persistence, or pace ("CPP"). Second, she argues that the ALJ failed to build "an accurate and logical bridge" between the evidence concerning plaintiff's pace limitations and her conclusion that those limitations could be accounted for by eliminating jobs with fast paced or hourly production rate quotas.

I. Weighing of Medical Opinions

A. Peggy Dennison, Ph.D.

Plaintiff first challenges the ALJ's decision to give only "partial" weight to examining psychologist Dennison's opinion in formulating the mental RFC. Specifically, in addition to incorporating Dennison's suggestion that plaintiff might have pace issues, plaintiff argues that the ALJ should have also included persistence and concentration limitations based on Dennison's opinion that Robson had a "short attention span" and "might" not be able to concentrate for an entire day. The court disagrees. The determination of a claimant's RFC is the ALJ's responsibility, 20 C.F.R. §§ 404.1546(c), 416.946(c), and although the ALJ must consider all medical opinions of record, she is not bound by those opinions. *Haynes v. Barnhart*, 416 F.3d 621, 630 (7th Cir. 2005). Moreover, an ALJ need not incorporate limitations into the RFC assessment that she did not find credible. *Simila*

v. Astrue, 573 F.3d 503, 521 (7th Cir. 2009). As the ALJ explained, Dennison's opinion "involved a great deal of conjecture," insofar as she opined that plaintiff "might" have problems with concentration and pace, "probably could" withstand routine work stress, and "likely" could adapt to changes. The speculative nature of Dennison's opinion was a "good reason" not to give it much weight, as was the ALJ's reliance on alternative, limitation language advanced by the state agency psychologists.

In a related argument, plaintiff argues that the ALJ should have given the agency psychologists' opinions little weight because *they* did not adopt Dennison's opinion that plaintiff "might" have problems with work pace. (Plt.'s Br. (dkt. #11, 21.) This is a strange argument for plaintiff to make, given her concession that "[t]he ALJ did provide some limitations in pace." (*Id*.) Indeed, the ALJ ultimately adopted an RFC finding *more restrictive* than that recommended by the state agency psychologists.[6]

Finally, it is also plain that the ALJ did not find plaintiff's allegation of significant attention and concentration problems to be credible. Earlier in her decision, the ALJ found that plaintiff's ability to drive and work as a cab driver showed that her attention and concentration problems were *not* acute, explaining that "[e]ven minimal operation of a motor vehicle requires substantial attention and concentration.[]" (AR 257.) Plaintiff does not challenge this finding, which was another good reason to give only partial weight to Dennison's opinion.

[6] While the "fast pace" limitation by itself might be somewhat vague by itself, the court finds its use in conjunction with "or hourly production rate pace" sufficient guidance to the VE, at least where more restrictive than the medical opinion evidence required. *See* discussion in Part II, *infra.*

B. Deb Day, N.P.

Under the rules in effect when plaintiff applied for benefits, licensed advanced nurse practitioners, like Day, were not recognized as "acceptable medical sources" whose opinions were entitled to any special consideration. *See* 20 C.F.R. §§ 404.1502, 416.902 (effective March 27, 2017). Even so, when the record contains evidence from non-acceptable medical sources, the rules provided that an ALJ "generally should explain the weight given to [their] opinions . . . or otherwise ensure that the discussion of the evidence in the determination or decision allows a claimant or subsequent reviewer to follow the [ALJ's] reasoning, when such opinions may have an effect on the outcome of the case." 20 C.F.R. §§ 404.1527(f)(2), 416.927(f)(2).

As the Commissioner points out, however, the ALJ met this obligation here, explaining that she gave Day's opinion little weight because: (1) her treatment notes did not support it; and (2) the extreme limitations she endorsed were inconsistent with plaintiff's ability to drive a cab and sell Avon products. In response, plaintiff argues that neither of these reasons was sound. First, she disputes the ALJ's finding that Day's treatment notes did not support her opinion, citing two notes in particular that she contends support Day's conclusions. In the first, from November 17, 2017, Day describes plaintiff as crying and appearing "anxious and overwhelmed," although her thoughts were logical, clear, and goal directed, and her affect was pleasant. (Plt.'s Br. (dkt. #11) 23.) In the second, from December 2016, Day noted the following: plaintiff was neatly and casually dressed; her affect was pleasant; her thoughts were logical, clear, and goal directed with no symptoms of psychosis; plaintiff described her mood as down but denied any

thoughts, plans or intention of harming herself or others; and she denied any issues with anger or explosiveness. (*Id*.)

Plaintiff then states perfunctorily that these records "show support for [Day's] conclusions," (*id*.) but the court fails to see how this is so. Certainly, neither note documents a two-week period of decompensation, marked limitation in CPP, or an inability to function outside the home, all of which were endorsed by Day.[7] To the contrary, the notes consistently document what appears to be fairly normal mental functioning apart from some anxiousness and a depressed mood.

Plaintiff further argues that it was improper for the ALJ to rely on plaintiff's work as a cab driver and selling Avon products without asking if plaintiff had a "justifiable explanation" for her ability to perform such work. Although an ALJ has an obligation to inquire whether there are reasons for a plaintiff's failure to follow prescribed treatment before rejecting her subjective complaints on that basis, *see* SSR 16-3p, an ALJ has no general duty to inquire about *all* discrepancies in the evidence. *See McHenry v. Berryhill*, 911 F.3d 866, 873 (7th Cir. 2018) (Because "an ALJ has the burden of inquiry only when drawing inferences about the severity of a condition from the failure to seek or continue medical care," ALJ did not err in failing to inquire about the plaintiff's contradictory statements about driving before drawing an adverse inference).

Here, it was not unreasonable for the ALJ to find in part that plaintiff's ability to

[7]Plaintiff further notes that Day stated on her mental RFC questionnaire that she had reviewed plaintiff's record from the Monroe County Department of Human Services in forming her opinions, but plaintiff does not cite to any of these records, much less attempt to show how they support Day's opinions. (Plt.'s Br. (dkt. #11) 24.) The court declines to undertake that search on its own.

work and interact with strangers was inconsistent with Day's opinions that plaintiff had a complete inability to function independently outside her home and had four extended periods of decompensation in a 12-month period. Nor was it unreasonable for the ALJ to question the reliability of Day's opinion of extreme mental limitations, given that plaintiff's mental condition had never required hospitalization, but rather had been managed on an outpatient basis, through Day's treatment of her. Contrary to plaintiff's contention, the ALJ was not "playing doctor," but merely drawing the reasonable conclusion that plaintiff's activities and lack of treatment were inconsistent with the severity of impairment suggested by Day's extreme limitations. Moreover, the ALJ's explanation was supported by the other agency psychologists' conclusion upon which the ALJ expressly relied. Accordingly, the court finds no error in the ALJ's treatment of Day's opinion.[8]

II. RFC Assessment

In determining that a claimant has limitations in concentrating, persisting or maintaining pace ("CPP"), the ALJ must account for those limitations in the RFC and the corresponding hypothetical posed to the VE. *See, e.g., Winsted v. Berryhill*, 923 F.3d 472, 476-77 (7th Cir. 2019) (citing *Moreno v. Berryhill*, 882 F.3d 722, 730 (7th Cir. 2018)); *O'Connor-Spinner v. Astrue*, 627 F.3d 614, 619 (7th Cir. 2010). In doing so, however, the

[8]In her reply, plaintiff argues for the first time that the ALJ erred by failing to comply with SSR 06-3p, which explains that the factors in 20 C.F.R. §§ 404.1527(d) and 416.927(d), used to evaluate opinions from "acceptable medical sources," can also be used to evaluate opinions from medical sources who are not acceptable medical sources. By failing to raise this argument until her reply, plaintiff has waived it. *See, e.g., United States v. Kennedy*, 726 F.3d 968, 974 n. 3 (7th Cir. 2013) (arguments raised for the first time in a reply brief are waived). In any case, the ruling states only that the factors *can* be used, not that they *must* be used. SSR 06-03p, 2006 WL 2329939, at *4.

ALJ need not use "magic words" or even use the specific terms "concentration, persistence, and pace" in the ultimate RFC or VE hypothetical, so long as adequate alternative phrasing is employed that accounts for the plaintiff's particular job-related limitations. *Crump v. Saul*, 932 F.3d 567, 570 (7th Cir. 2019); *O'Connor-Spinner*, 627 F.3d at 619.

What the ALJ *cannot* do is *assume* that a mere restriction to unskilled work is enough to account for moderate CPP limitations. *Martin v. Saul*, 950 F.3d 369, 374 (7th Cir. 2020). Instead, the ALJ must "build an accurate and logical bridge" from the evidence about the plaintiff's mental limitations to the conclusion about the types of work the plaintiff can perform. *Martin*, 950 F.3d at 374 (affirming decision of ALJ who "did not take any of the shortcuts on [plaintiff's] CPP limitations that we have found problematic in other cases."); *Clifford v. Apfel*, 227 F.3d 863, 872 (7th Cir. 2000). Where the RFC is tailored to "account for the claimant's demonstrated psychological symptoms," it will generally be upheld. *See, e.g., Jozefyk v. Berryhill*, 923 F.3d 492, 498 (7th Cir. 2019) (ALJ adequately accommodated claimant's social anxiety with RFC for simple, routine, repetitive tasks requiring no more than occasional contact with supervisors and coworkers, no contact with public, and an assigned work area at least 10-15 feet away from coworkers).

In this case, the ALJ did not commit the familiar error of assuming that a limitation to "unskilled work" was sufficient to account for plaintiff's moderate CPP limitations. Instead, she specifically addressed plaintiff's CPP challenges, finding that plaintiff was "able to understand, remember and carry out simple, routine tasks, [and] make simple work-related decisions." In addition, to account for the one area of CPP that the ALJ found problematic -- pace -- the ALJ adopted the additional restriction that plaintiff should be

precluded from performing "fast paced or hourly production rate pace quotas."

Plaintiff argues that this restriction was too vague. First, she contends that the ALJ should have included limitations relating to punctuality, attendance, and completing a normal workday or workweek. (Plt.'s Br. (dkt. #11) 15.) Plaintiff cites, and the court is aware of, no legal authority supporting this argument. Moreover, plaintiff does not cite any *medical evidence* (apart from Day's report, which the ALJ properly rejected) suggesting that she had any limitations in maintaining attendance, punctuality, or completing a workweek. To the contrary, as noted, the state agency psychologists, whose opinions the ALJ found were entitled to great weight, found no significant limitations in these areas.

Second, plaintiff argues that the phrase "no fast paced or hourly production rate pace quotas" was too vague to give the VE proper guidance about what kinds of jobs plaintiff could perform. (Plt.'s Br. (Dkt. #11) 16-17.) Although it is true that the Seventh Circuit has on occasion found the term "no fast paced production" inadequate to capture the plaintiff's CPP limitations, s*ee, e.g., Varga v. Colvin*, 794 F.3d 809, 815 (7th Cir. 2015), it has also recognized that "there is only so much specificity possible in crafting an RFC." *Martin*, 950 F.3d at 374. Thus, in *Martin*, 950 F.3d at 374, the court rejected the plaintiff's argument that the ALJ's finding that she could work only in "an environment that allowed her to sustain a flexible and goal oriented pace" was too vague to guide any determination of what work, if any, she could perform over an entire workday. Acknowledging that the RFC was not "ideal" because it did not specify "that any pace-based goals must be *reasonable* as a way of signaling that the employer could not set the bar beyond the person's functional reach," the *Martin* court found such a conclusion "surely implicit" in the ALJ's

determination. *Id*.

Similarly, in C*ihlar v. Berryhill*, 706 F. App'x 881 (7th Cir. 2017), the court rejected the plaintiff's argument that the term "no production or pace rate work" failed to capture a medical expert's conclusion that plaintiff could "attend adequately to the task if the information is presented and *not bound by time.*" *Id. at* 883-84 (emphasis in original). In that case, the plaintiff argued that to accommodate the medical expert's finding, the ALJ's hypothetical should have limited the VE to jobs where the plaintiff *herself* set the pace. *Id*. Disagreeing, the Seventh Circuit found that the ALJ reasonably understood the expert's report to mean that the plaintiff had "difficulty doing tasks in a fast manner" and permissibly used the phrase "no production or pace rate work" to account for that limitation. *Id*.

Here, in spite of complaining that the ALJ's pace limitation was unduly vague, plaintiff proposes no alternative language that the ALJ should have used, much less point to evidence in the record to support such language. Insofar as she relies on Dennison's amorphous opinion that plaintiff's "work pace might also be compromised," that "finding" is even less specific than the ALJ's limitation to "no fast paced or hourly production rate pace quotas." Moreover, contrary to plaintiff's argument, the ALJ built an adequate and logical bridge between the evidence and the pace limitation. Specifically, the ALJ explained that she was finding pace limitations based on evidence that plaintiff had lost a job at a cleaners "for not being fast enough" and "had some issues with speed" while inspecting parts on an assembly line. (AR 258.) Because the restriction to "no fast paced or hourly production rate pace quotas" reasonably addresses those concerns, the ALJ's RFC

determination must be upheld. *See Jozefyk*, 923 F.3d at 498 (noting that this court will uphold even "generic[ ]" limitations so long as they "adequately account for the claimant's demonstrated psychological symptoms" found in the record).

ORDER

IT IS ORDERED that the decision of the Commissioner of Social Security denying plaintiff Tammie Robson's applications for disability insurance benefits and supplemental security income is AFFIRMED. The clerk of court is directed to enter judgment for defendant and close this case.

Entered this 7th day of May, 2020.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge