

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

ALICE STOKLOSA,

Plaintiff,

OPINION AND ORDER

v.

18-cv-734-wmc

ANDREW M. SAUL, Commissioner of
Social Security,

Defendant.

Pursuant to 42 U.S.C. § 405(g), plaintiff Alice Stoklosa seeks judicial review of a final determination that she was not disabled within the meaning of the Social Security Act. In a cursory fashion, Stoklosa's counsel contends that remand is warranted because the administrative law judge ("ALJ"): (1) "failed to discuss several of Stoklosa's medical conditions[,] thereby resulting in an incomplete RFC"; and (2) "failed to comply with SSR 02-01p in not considering the impact of the claimant's obesity on her ability to work." (Pl.'s Br. (dkt. #7) 24, 27.) While plaintiff submitted a 29 page opening brief, only a few pages were devoted to argument. Indeed, the vast majority was nothing more than copy and paste of the transcript of the hearing.¹ In response, the Commissioner submitted a brief addressing plaintiff's two arguments, to which plaintiff offered no reply. Given the lack of development of these arguments -- indeed, the arguments utterly fail to address the ALJ's actual written decision -- and plaintiff's failure to file a reply addressing the Commissioner's response, the court will affirm the denial of benefits in summary fashion.

¹ The court recognizes that in more recent filings, plaintiff's counsel is no longer copying and pasting large portions of the administrative record; instead, he is simply directing the court to those portions, although still without any helpful summary or a tie to argument.

Stoklosa raises two challenges to the ALJ's determination. *First*, she faults the ALJ for failing to discuss several physical medical conditions. This is plainly inaccurate. In her decision, ALJ Kathleen Kadlec described in great detail why she limited Stoklosa's severe impairment to arthralgia and obesity, rejecting diabetes and peripheral neuropathy, osteoporosis and left upper extremity issues, hypertension, possible sleep apnea and restless leg syndrome as severe impairments. (AR 161-63.) While Stoklosa testified to these additional medical conditions and related symptoms, the ALJ is not required to take her testimony at face value. *See* 20 C.F.R. § 404.1529(c) (listing evidence and factors to weigh when assessing subjective symptoms). Instead, the ALJ properly reviewed Stoklosa's medical record, as well as considered and relied on the opinions of the state agency doctor, who concluded that Stoklosa could perform light work (AR 171 (citing Mack Rept. (AR 146-49))), and also described reasons for discounting Stoklosa's account of her symptoms (AR 161-62). In her appeal, Stoklosa utterly fails to point to any evidence in the medical record to support a finding that these conditions constitute severe impairments or otherwise challenge the ALJ's findings to the contrary. Regardless, the court summarily rejects Stoklosa's argument that the ALJ simply failed to discuss these medical conditions.

Second, Stoklosa argues that the ALJ failed to account for the impact of her obesity on her functioning. The bulk of plaintiff's argument amounts to quoting a paragraph from the ALJ's decision, which appropriately cites the relevant regulation and considers whether and how Stoklosa's obesity impacts her functioning, ultimately concluding, "[t]he undersigned considered any added or accumulative effects the claimant's obesity played on her ability to function, and to perform routine movement and necessary physical activity within the work environment." (Pl.'s Br. 27 (quoting AR 167).) However, the ALJ then

went on to explain that the claimant's morbid obesity did not preclude her from doing a range of light work, relying on the opinion of the state agency doctor, who also considered Stoklosa's weight in finding that she could engage in light work. (AR 148, 171.) At minimum, contrary to plaintiff's suggestion to the contrary, this fact distinguishes this case from *Goins v. Colvin*, 764 F.3d 677 (7th Cir. 2014), in which the state agency physician failed to mention the claimant's obesity in rendering his opinion. *Id.* at 678; *see also Pepper v. Colvin*, 712 F.3d 351, 364 (7th Cir. 2013) (holding that even where the ALJ did not specifically analyze obesity, the error was harmless because the RFC was based on limitations identified by a doctor who considered obesity in determining functional capacity).

ORDER

Accordingly, IT IS ORDERED that:

- 1) The decision of defendant Andrew M. Saul, Commissioner of Social Security, denying plaintiff Alice Stoklosa's application for disability benefits is AFFIRMED.
- 2) The clerk of court is directed to enter judgment for defendant.

Entered this 14th day of January, 2020.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge