

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MATTIE M. DANDRIDGE : CIVIL ACTION
: :
v. : :
: :
JO ANNE B. BARNHART, : :
Commissioner of : :
Social Security : NO. 03-05796-JF

MEMORANDUM AND ORDER

Fullam, Sr. J. October , 2004

The administrative law judge, whose decision became the final action by the Social Security Administration, denied plaintiff's application for disability benefits. Plaintiff's motion for summary judgment sought a remand for the award of benefits. The magistrate judge to whom the case was referred has filed a report recommending that the case be remanded to the Social Security Administration because the ALJ did not adequately deal with the issue of "stress," as required by Social Security ruling 85-15. Neither party has filed any objections to the magistrate's report, and my review of the entire record persuades me that the magistrate judge was clearly correct in concluding that the ALJ erred in precluding plaintiff's counsel from cross-examining the vocational expert on the issue of stress, and that the ALJ did not act in conformity with the requirements of Social Security ruling 85-15. I further conclude, however, that the record is deficient in other respects.

The ALJ expressly placed great reliance upon the testimony of Dr. Prout, an independent medical expert, but, in my view, was unduly selective in choosing which parts of Dr. Prout's testimony to emphasize. Dr. Prout stated that he agreed with the assessments of Dr. Lindner; and, when read together, the testimony of these two experts can be read as asserting that plaintiff would be severely limited, although not totally precluded, from performing even the simplest tasks. There is thus at least a serious question as to whether the Secretary succeeded in refuting the *prima facie* case which was undoubtedly established by the claimant. Upon remand, the ALJ should address these problems.

It is undisputed that the claimant has, at various times, seriously abused alcohol, and, on occasion, has been hospitalized for seizures presumably resulting from alcohol abuse. But the record is also reasonably clear that plaintiff has long suffered from severe depression, has various cognitive defects, and suffers from a variety of serious physical impairments. The ALJ seems to have assumed that plaintiff's past difficulties with alcohol serve to explain all of her ailments, including the severe depression. But the medical evidence in the record seems to show that plaintiff's alcohol abuse (which, according to the record, ended (either totally or for the most

part) several years ago), may have been the result of her depression, rather than its cause.

As both sides seemed to recognize at the ALJ hearing, the issue is whether, when sober, plaintiff has the residual capacity to engage in meaningful employment. I am not satisfied that, on the present record, the ALJ came to grips with that fundamental issue. I therefore conclude that the scope of the remand recommended by the magistrate judge should be expanded to include careful reconsideration of all pertinent issues.

An order follows.

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ORDER

AND NOW, this day of October 2004, upon consideration of the report and recommendation of the United States Magistrate, to which report and recommendation no objections have been filed, IT IS HEREBY ORDERED:

1. The report of the magistrate judge is APPROVED and, for the most part, ADOPTED.
2. Plaintiff's motion for summary judgment is GRANTED IN PART.
3. The defendant's motion for summary judgment is DENIED.
4. The case is REMANDED to the Secretary for plenary reconsideration.

John P. Fullam, Sr. J.