

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

CASANDRA MASON o/b/o D.	:	
Plaintiff,	:	
v.	:	No. 05-5103
	:	
JO ANNE B. BARNHART,	:	
COMMISSIONER OF SOCIAL SECURITY,	:	
Defendant.	:	

MEMORANDUM

GREEN, S.J.

July 18, 2006

Presently before the Court are the parties' cross-motions for summary judgment. Oral argument on the motions was held and the argument of counsel heard and considered. In addition to considering the parties memoranda and the arguments of counsel, the court has carefully reviewed the record and the opinion of the Administrative Law Judge ("ALJ"). Upon consideration of the foregoing, I conclude, for the reasons set forth below, that summary judgment will be granted in favor of Defendant. Plaintiff's motion for summary judgment will be denied.

The factual and procedural background of this case are fully set forth in the parties' respective motions; therefore, it is not necessary to recite them herein. In his motion, and during argument, Plaintiff's counsel asserts that the administrative record demonstrates that Plaintiff's minor daughter's ("the applicant" herein) impairments impose marked limitations in at least two domains of her functioning. Plaintiff therefore concludes that the applicant is disabled pursuant to 20 C.F.R. § 416.926a(a). At the hearing, the Commissioner agreed that the applicant has limitations in some areas of functioning, however argued that the limitations were not sufficiently extreme nor marked to support a finding of disability.

This court is bound by the ALJ's findings of fact if they are supported by substantial evidence in the record. See 42 U.S.C. § 405(g). Substantial evidence is "such

relevant evidence as a reasonable mind might accept as adequate." Plummer v. Apfel, 186 F.3d 422, 427 (3d Cir. 1999).

After careful and independent consideration of the ALJ's opinion, the parties motions and supporting briefs, and the respective arguments of counsel, I conclude that the ALJ's opinion that the applicant's impairments do not impose marked limitation in two areas of her functioning is supported by substantial evidence in the record. Plaintiff's counsel places emphasis on the fact that the applicant's teacher reported that she exhibited limitations in her ability to learn new material, understand instructions, and express her ideas in comparison with her same age unimpaired peers. Moreover, Plaintiff argues that because the ALJ failed to explain why he discounted the functional assessment from the applicant's teacher, and also did not consider the additional help she required to function, there is not substantial evidence in the record to support the Commissioner's decision denying Plaintiff's application for benefits. However, upon careful review of the ALJ's opinion, this court notes that the ALJ carefully analyzed the Child Functioning Questionnaire completed by Ariesha Green [the applicant's teacher]. See R. at 17-20. In doing so the ALJ found that while the applicant had some limitations, none of them were marked limitations in any domain of functioning.

Moreover, the record nevertheless demonstrates that the applicant made academic progress in school, did not repeat any grades, and was enrolled in regular education classes. R. at 47, 90 and 160. Although the applicant qualified for special education classes for math and reading difficulties, these services had not been implemented at the time of her application for benefits. R. at 160-161. As the ALJ noted, despite being eligible for special education classes, the applicant is able to use information once she understands it, is able to complete school assignments, maintains friendships with her peers, participates in extracurricular activities, is able to care for herself, and is an otherwise healthy child. R. at 47, 57, 62-64, 90, 110, 112-114, 159-160, 171). Moreover, although it is undisputed that the

applicant has an excessive fear of masks, unless she is confronted with them, this fear does not otherwise limit her functioning. R at 91. Because there is sufficient evidence in the record to support the ALJ's conclusions, Defendant's motion for summary must be granted and Plaintiff's motion denied.

An appropriate order follows.

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JO ANNE B. BARNHART,	:	
COMMISSIONER OF SOCIAL SECURITY,	:	
Defendant.	:	

ORDER

AND NOW, this 18th day of July 2006,, **IT IS HEREBY ORDERED** that:

1. Defendant's motion for summary judgment is **GRANTED**;
2. Plaintiff's motion for summary judgment is **DENIED**;
3. The Clerk of the Court shall mark this case closed.

BY THE COURT:

S/ _____

CLIFFORD SCOTT GREEN, S.J.