

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

CHRISTOPHER JERNIGAN,	:	
Plaintiff,	:	CIVIL ACTION
	:	
v.	:	
	:	NO. 06-CV-3881
JO ANNE B. BARNHART,	:	
Commissioner of Social Security,	:	
Defendant.	:	

**MEMORANDUM**

**GREEN, S.J.**

**February 9, 2007**

Presently pending are the parties' cross-motions for summary judgment. Oral argument was held in this matter on February 7, 2006 at 11:00 a.m. in courtroom 5-B.

The Administrative Law Judge ("ALJ") found that Plaintiff suffers from a severe disorder of his back but does not have an impairment that meets or equals one of the Listed Impairments in 20 CFR 404, Subpart P. The ALJ further found that Plaintiff retains the residual functional capacity to lift and carry at least twenty pounds on an occasional basis and about ten pounds on a frequent basis. The ALJ therefore concluded that considering Plaintiff's age, education, work experience and residual functioning capacity, there are jobs that exist in significant number in the national economy that Plaintiff can perform. In so concluding the ALJ did not utilize a vocational expert during Plaintiff's administrative proceedings, but instead followed the Medical-Vocational Guidelines (the "vocational grids") found at 20 CFR Part 404, Subpart P, Appendix 2. After implementing the vocational grids, the ALJ concluded that there are jobs existing in the national economy that Plaintiff can perform.

Plaintiff objects to the ALJ's findings and argues that the ALJ committed error when he failed to utilize a vocational expert. At oral argument Plaintiff's counsel asserted that because Plaintiff had non-exertional limitations, including decreased concentration, dizziness due to certain medications, frustration, and pain unrelated to walking, the ALJ was required to employ a vocational expert. Plaintiff further asserts that the ALJ placed too much emphasis on a consultative report over the findings of Plaintiff's treating physicians, and also failed to accord

proper weight to the effects of medications taken by Plaintiff.

The Court has carefully reviewed the record and considered the arguments of counsel. Upon review this court concludes that there is substantial evidence in the record to support the ALJ's determination. Despite Plaintiff's assertions to the contrary, the ALJ considered Plaintiff's subjective complaints regarding his non-exertional limitations. The ALJ, however, gave little credence to those complaints given Plaintiff's testimony regarding his television watching, driving his children to school, playing video games, doing household chores and walking. Plaintiff points to facts in the record, including portions of some of the reports of his treating physicians to support his claim of disability. However, there is significant contradictory evidence in the record - including information contained in the reports of his treating physicians - to support the ALJ's findings regarding the severity of Plaintiff's disability and exertional limitations. Therefore, the ALJ could properly discount Plaintiff's claims of non-exertional limitations and utilized the vocational grids in determining whether significant jobs that Plaintiff can perform exists in the national economy. See, Santise v. Schweiker 676 F.2d 925 (3d Cir. 1982). Finally, the ALJ, despite Plaintiff's arguments and assertions to the contrary, considered the effects of the medications Plaintiff took, however, discounted the assertions regarding the effect of the medication given Plaintiff's admissions regarding his daily activities, including those stated above. Accordingly the Commissioner's Motion for Summary Judgment will be granted and Plaintiff's Motion for Summary Judgment will be denied.

An appropriate Order follows.

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Commissioner of Social Security,	:	
Defendant.	:	

**ORDER.**

Presently pending are the parties' cross-motions for summary judgment. **AND NOW**, this 9<sup>th</sup> day of February 2007, **IT IS HEREBY ORDERED** that:

1. The Commissioner's Motion for Summary Judgment is **GRANTED**;
2. Plaintiff's Motion for Summary Judgment is **DENIED**.

BY THE COURT:

/s/ CLIFFORD SCOTT GREEN  
CLIFFORD SCOTT GREEN, S.J.