

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ABINGDON DIVISION**

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|----------------------------------|---|----------------------------------|
| <b>CALVIN STOOTS,</b>            | ) |                                  |
| Plaintiff                        | ) |                                  |
|                                  | ) |                                  |
| v.                               | ) | Civil Action No. 1:04cv00077     |
|                                  | ) | <b><u>MEMORANDUM OPINION</u></b> |
|                                  | ) |                                  |
|                                  | ) |                                  |
| <b>JO ANNE B. BARNHART,</b>      | ) |                                  |
| Commissioner of Social Security, | ) | By: PAMELA MEADE SARGENT         |
| Defendant                        | ) | United States Magistrate Judge   |

In this social security case, I affirm the final decision of the Commissioner denying benefits.

*I. Background and Standard of Review*

Plaintiff, Calvin Stoots, filed this action challenging the final decision of the Commissioner of Social Security, (“Commissioner”), denying plaintiff’s claims for disability insurance benefits, (“DIB”), and supplemental security income, (“SSI”), under the Social Security Act, as amended, (“Act”), 42 U.S.C.A. §§ 423 and 1381 *et seq.* (West 2003). Jurisdiction of this court is pursuant to 42 U.S.C. §§ 405(g) and 1383(c)(3). This case is before the undersigned magistrate judge upon transfer pursuant to the consent of the parties under 28 U.S.C. § 636(c)(1).

The court’s review in this case is limited to determining if the factual findings

of the Commissioner are supported by substantial evidence and were reached through application of the correct legal standards. *See Coffman v. Bowen*, 829 F.2d 514, 517 (4<sup>th</sup> Cir. 1987). Substantial evidence has been defined as “evidence which a reasoning mind would accept as sufficient to support a particular conclusion. It consists of more than a mere scintilla of evidence, but may be somewhat less than a preponderance.” *Laws v. Celebrezze*, 368 F.2d 640, 642 (4<sup>th</sup> Cir. 1966). ““If there is evidence to justify a refusal to direct a verdict were the case before a jury, then there is “substantial evidence.””” *Hays v. Sullivan*, 907 F.2d 1453, 1456 (4<sup>th</sup> Cir. 1990) (quoting *Laws*, 368 F.2d at 642).

The record shows that Stoots filed his applications for DIB and SSI on or about January 23, 2002, alleging disability as of January 18, 2002, based on problems with his back and knee. (Record, (“R.”), at 49-51, 59, 288-90.) Stoots’s claims were denied both initially and on reconsideration. (R. at 38-40, 41, 42-43, 299-300.) Stoots requested a hearing before an administrative law judge, (“ALJ”), (R. at 44). The ALJ held two hearings in this matter, the first on October 31, 2002, and the second on March 24, 2003. (R. at 315-44.) Stoots was represented by counsel at both of these hearings. (R. at 315, 334.)

In a decision dated April 3, 2003, the ALJ denied Stoots’s claims. (R. at 16-24.) The ALJ found that Stoots met the disability insured requirements of the Act through the date of the decision. (R. at 23.) He further found that Stoots had not engaged in substantial gainful activity since his alleged onset of disability. (R. at 23.) The ALJ found that Stoots had severe impairments, namely a back disorder, history of right anterior cruciate ligament repair and reconstruction and borderline intellectual

functioning, but he found that Stoots did not have an impairment or combination of impairments listed at or medically equal to one listed at 20 C.F.R. Part 404, Subpart P, Appendix 1. (R. at 20, 23-24.) The ALJ further found that Stoots's allegations regarding his limitations were not totally credible. (R. at 24.) The ALJ concluded that Stoots retained the residual functional capacity to perform medium work<sup>1</sup> that was consistent with borderline intellectual functioning. (R. at 24.) Based on this, the ALJ found that Stoots was able to perform any of his past relevant work. (R. at 24.) Thus, the ALJ found that Stoots was not under a disability as defined by the Act and was not eligible for benefits. (R. at 24.) *See* 20 C.F.R. §§ 404.1520(f), 416.920(f) (2004).

After the ALJ issued this decision, Stoots pursued his administrative appeals, (R. at 11), but the Appeals Council denied his request for review. (R. at 6-10.) Stoots then filed this action seeking review of the ALJ's unfavorable decision, which now stands as the Commissioner's final decision. *See* 20 C.F.R. §§ 404.981, 416.1481 (2004). The case is before this court on Stoots's motion for summary judgment filed October 27, 2004, and the Commissioner's motion for summary judgment filed December 28, 2004.

## *II. Facts and Analysis*

Stoots was born in 1970, (R. at 49), which classifies him as a "younger person" under 20 C.F.R. §§ 404.1563(c), 416.963(c) (2004). He has a high school education.

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<sup>1</sup>Medium work involves lifting items weighing up to 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. If an individual can do medium work, he also can do sedentary and light work. *See* 20 C.F.R. §§ 404.1567(c), 416.927 (c) (2004).

(R. at 65.) Stoots has past relevant work experience as a mechanic and an assembler.  
(R. at 68.)

In rendering his decision, the ALJ reviewed records from Dr. Maria C. Abeleda, M.D., a psychiatrist; Michael Kleinot, Ph.D., a licensed clinical psychologist; Saltville Medical Center; Royal Oak Medical Associates; Heartland Rehabilitation Services; Dr. Wallace Huff, M.D.; Dr. F. L. Garzon, M.D.; Johnston Memorial Hospital; Smyth County Community Hospital; J. Scott, a nurse practitioner; Family Physicians; and Smyth County Schools. Stoots's counsel also submitted additional medical records from Dr. Huff and Smyth County Community Hospital to the Appeals Council.<sup>2</sup>

The Commissioner uses a five-step process in evaluating DIB and SSI claims. *See* 20 C.F.R. §§ 404.1520, 416.920 (2004). *See also Heckler v. Campbell*, 461 U.S. 458, 460-62 (1983); *Hall v. Harris*, 658 F.2d 260, 264-65 (4<sup>th</sup> Cir. 1981). This process requires the Commissioner to consider, in order, whether a claimant 1) is working; 2) has a severe impairment; 3) has an impairment that meets or equals the requirements of a listed impairment; 4) can return to his past relevant work; and 5) if not, whether he can perform other work. *See* 20 C.F.R. §§ 404.1520, 416.920 (2004). If the Commissioner finds conclusively that a claimant is or is not disabled at any point in this process, review does not proceed to the next step. *See* 20 C.F.R. §§ 404.1520(a), 416.920(a) (2004).

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<sup>2</sup>Since the Appeals Council considered this evidence in reaching its decision not to grant review, this court also should consider this evidence in determining whether substantial evidence supports the ALJ's findings. *See Wilkins v. Sec'y of Dep't of Health & Human Servs.*, 953 F.2d 93, 96 (4<sup>th</sup> Cir. 1991).

Under this analysis, a claimant has the initial burden of showing that he is unable to return to his past relevant work because of his impairments. Once the claimant establishes a prima facie case of disability, the burden shifts to the Commissioner. To satisfy this burden, the Commissioner must then establish that the claimant has the residual functional capacity, considering the claimant's age, education, work experience and impairments, to perform alternative jobs that exist in the national economy. *See* 42 U.S.C.A. §§ 423(d)(2)(A), 1382c(a)(3)(A)-(B) (West 2003); *McLain v. Schweiker*, 715 F.2d 866, 868-69 (4<sup>th</sup> Cir. 1983); *Hall*, 658 F.2d at 264-65; *Wilson v. Califano*, 617 F.2d 1050, 1053 (4<sup>th</sup> Cir. 1980).

In a decision dated April 3, 2003, the ALJ found that Stoots retained the residual functional capacity to perform medium work that was consistent with borderline intellectual functioning. (R. at 24.) In his brief, Stoots argues that substantial evidence does not support the ALJ's finding as to his mental residual functional capacity. (Brief In Support Of Motion For Summary Judgment, ("Plaintiff's Brief"), at 7-10.) Based on my review of the record, I disagree.

As stated above, the court's function in this case is limited to determining whether substantial evidence exists in the record to support the ALJ's findings. This court must not weigh the evidence, as this court lacks authority to substitute its judgment for that of the Commissioner, provided her decision is supported by substantial evidence. *See Hays*, 907 F.2d at 1456. In determining whether substantial evidence supports the Commissioner's decision, the court also must consider whether the ALJ analyzed all of the relevant evidence and whether the ALJ sufficiently explained his findings and his rationale in crediting evidence. *See Sterling Smokeless*

*Coal Co. v. Akers*, 131 F.3d 438, 439-40 (4<sup>th</sup> Cir. 1997).

Thus, it is the ALJ's responsibility to weigh the evidence, including the medical evidence, in order to resolve any conflicts which might appear therein. *See Hays*, 907 F.2d at 1456; *Taylor v. Weinberger*, 528 F.2d 1153, 1156 (4<sup>th</sup> Cir. 1975). While an ALJ may, under the regulations, assign no or little weight to a medical opinion, even one from a treating source, based on the factors set forth at 20 C.F.R. §§ 404.1527(d), 416.927(d), he may not reject medical evidence for no reason or for the wrong reason. *See King v. Califano*, 615 F.2d 1018, 1020 (4<sup>th</sup> Cir. 1980).

In this case, I find that the substantial evidence supports the ALJ's finding that Stoots's mental residual functional capacity was restricted only by his borderline intellectual functioning.

Stoots argues that the ALJ erred by disregarding the opinions of his treating psychiatrist, Dr. Maria C. Abeleda, M.D., regarding his mental residual functional capacity. Based on my review of the record, I disagree. Under the regulations, an ALJ must accept the findings and opinions of a treating physicians only if they are "well-supported by medically acceptable clinical and laboratory diagnostic techniques" and are not "inconsistent with the other substantial evidence" of record. 20 C.F.R. §§ 404.1527(d)(2), 416.927(d)(2) (2004). The ALJ in this case rejected Dr. Abeleda's opinions regarding Stoots's mental residual functional capacity based on his finding that her opinions were not consistent with her treatment records and/or the mental health counseling records. (R. at 21.) I find that the record supports this finding.

In particular, Dr. Abeleda's March 14, 2003, assessment of Stoots's mental residual functional capacity stated that Stoots had a poor or no ability to understand, remember and carry out any type of job instructions, to relate predictably in social situations and to demonstrate reliability. (R. at 285-86.) This assessment also stated that Stoots's abilities in all other areas were seriously limited, but not precluded. (R. at 285-86.) While Dr. Abeleda's September 27, 2002, initial assessment of Stoots indicated a potentially serious mental impairment, (R. at 270-71), her records also reflect that Stoots's impairment responded well to treatment with medication. On November 1, 2002, Dr. Abeleda's notes reflect that Stoots reported "a lot of improvement." (R. at 268.) Her notes reflect that Stoots had good hygiene, was pleasant and calm. (R. at 268.) Dr. Abeleda stated that Stoots's mood was "brighter," he was coherent, goal-directed, and well-oriented. (R. at 268.) Dr. Abeleda further noted that Stoots's insight was good and his memory was intact. (R. at 268.)

Dr. Abeleda's February 28, 2003, office note, the office note closest to her March 14, 2003, assessment, stated that Stoots's "moods have been stable" and that he denied "any more depression." (R. at 283.) Stoots further reported that he would like to continue his medication because "he was feeling so much better." (R. at 283.) Thus, Dr. Abeleda's own office notes do not support the severe limitations she placed on Stoots in her March 14, 2003, assessment of Stoots's mental residual functional capacity. Dr. Abeleda's assessment also was inconsistent with the assessment of the consultative psychologist, Michael Kleinot, Ph.D., based on his January 2, 2003, evaluation of Stoots. (R. at 274-81.)

Based on the above-stated reasons, I find that substantial evidence supports the

ALJ's decision to reject Dr. Abeleda's opinions regarding Stoots's mental residual functional capacity. I further find that the ALJ's finding as to Stoots's mental residual functional capacity is supported by Dr. Abeleda's office notes as well as the evaluation and assessment by psychologist Kleinot.

### *III. Conclusion*

For the foregoing reasons, Stoots's motion for summary judgment will be denied, the Commissioner's motion for summary judgment will be granted, and the Commissioner's decision denying benefits will be affirmed.

An appropriate order will be entered.

DATED: This 2<sup>nd</sup> day of March, 2005.

/s/ Pamela Meade Sargent  
UNITED STATES MAGISTRATE JUDGE