**UNITED STATES COURT OF APPEALS**
**for the Fifth Circuit**

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No. 92-5675
Summary Calendar

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HECTOR VALDEZ,

Plaintiff-Appellant,

VERSUS

LOUIS W. SULLIVAN, Secretary
of Health and Human Services,

Defendant-Appellee.

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Appeal from the United States District Court
for the Western District of Texas
(SA 91 CV 790)

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(March 19, 1993)

Before JOLLY, DUHÉ, and BARKSDALE, Circuit Judges.

PER CURIAM:[1]

Appellant was denied social security disability insurance benefits. Following a hearing, an administrative law judge found that, while Appellant did suffer from back problems which prevented him from performing his past relevant work as a welder, he had the capacity to perform sedentary work and was, therefore, not disabled. The Appeals Council denied review. Appellant petitioned

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[1] Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

the district court for review and it affirmed the Secretary's decision. Claimant appeals and we affirm.

Appellant presents four contentions: His pain is disabling, the Secretary did not accord proper weight to the evidence offered by the treating physician, the Secretary failed to consider the "peculiar circumstances" of Appellant's case, and the Secretary's decision is not based upon substantial evidence. We review the entirety of the Secretary's decision to determine if it is supported by substantial evidence and if proper legal standards were applied. Villa v. Sullivan, 895 F.2d 1019, 1021 (5th Cir. 1990). We note first that the mandated five-step sequential process was employed. Our careful review of the record convinces us that the ALJ was correct at every step. In Wren v. Sullivan, 925 F.2d 123, 126 (5th Cir. 1991) we set out four elements that must be weighed when determining whether substantial evidence of disability exists: 1) objective medical facts; 2) diagnoses and opinions of treating and examining physicians; 3) the claimant's subjective evidence of pain and disability; and 4) claimant's age, education and work history. We may not reweigh the evidence or try the issues de novo. Cook v. Heckler, 750 F.2d 391, 392 (5th Cir. 1985). Applying these criteria to this record as a whole, we are convinced that substantial evidence exists to support the Secretary's position.

The ALJ considered the opinion of Dr. Wilson, the treating physician, and acknowledged that special weight is commonly afforded to the opinion of treating physicians; but he found, and

properly so, that Dr. Wilson's opinion that Appellant was disabled was not supported by objective medical evidence. Dr. Wilson's reports on several occasions instructed that the Appellant should not work even though the results of the clinical examination reported in the reports indicated otherwise. In fact, the findings of Dr. Wilson's reports do not necessarily conflict with the findings reported by Dr. Lambert who suggested that Appellant, if not malingering, was certainly over-responding to the tests employed. In addition, the record does not reflect that claimant was ever disabled for a twelve-month period. Appellant points to the fact that a fusion was performed by Dr. Wilson but we note that this was more than a year after the evidentiary hearing and several months after the ALJ's decision.

In addition, the ALJ carefully considered the evidence of claimant's pain. Objective medical evidence must demonstrate the existence of a condition that could reasonably be expected to produce the level of pain or other symptoms asserted by the claimant. Anthony v. Sullivan, 954 F.2d 289, 296 (5th Cir. 1992). The record is at least equivocal on this issue and it is the primary responsibility of the ALJ to resolve such conflicts. Scharlow v. Schweiker, 655 F.2d 645, 648 (5th Cir. 1981). Undoubtedly the ALJ questioned the claimant's credibility which is his duty to do. The finding that claimant was prone to exaggeration is indeed based on substantial evidence.

Finally, the Appellant contends that the Secretary did not consider the combined disabling effects of the Appellant's

diabetes, obesity, and back pain. However, this position is refuted by the record.

On the record as a whole, we have no difficulty finding that the Secretary's decision is supported by substantial evidence.

AFFIRMED.