

UNITED STATES COURT OF APPEALS
for the Fifth Circuit

No. 92-7521
Summary Calendar

TERRY L. COPELAND,

Plaintiff-Appellant,

VERSUS

DONNA SHALALA, M.D.,
SECRETARY OF HEALTH AND HUMAN SERVICES,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Mississippi
(CA E91 0054 (L))

April 29, 1993

Before DAVIS, WIENER, and DeMOSS, Circuit Judges.

PER CURIAM:¹

Terry L. Copeland appeals the district court's rejection of his petition for disability supplemental security income. We affirm.

I.

Copeland filed an application for supplemental security income alleging that he was disabled since 1977 due to "nerves." The

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

application was denied initially and upon reconsideration. Following a **de novo** hearing the Administrative Law Judge (ALJ) determined that Copeland was not disabled. The Appeals Council denied his request for review of the ALJ's decision and that decision became the final decision of the Secretary.

Copeland filed a complaint in district court to set aside the Secretary's decision. The magistrate judge recommended dismissal, and the district court dismissed the complaint with prejudice. This appeal followed.

II.

Copeland argues that there is not substantial evidence in the record to support the Secretary's determination that he is not disabled within the meaning of the Social Security Act. The court reviews the Secretary's decision to determine whether there is substantial evidence in the record to support the Secretary's decision and whether the Secretary applied the proper legal standards. **Griego v. Sullivan**, 940 F.2d 942, 943 (5th Cir. 1991). Substantial evidence means "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." **Richardson v. Perales**, 402 U.S. 389, 401, 91 S.Ct. 1420, 28 L.Ed.2d 842 (1971) (quoting **Consolidated Edison Co. v. N.L.R.B.**, 305 U.S. 197, 229, 59 S.Ct. 206, 83 L.Ed.2d 126 (1938)). "[N]o substantial evidence' will be found only where there is a 'conspicuous absence of credible choices' or 'no contrary medical evidence.'" **Harrell v. Bowen**, 862 F.2d 471, 475 (5th Cir. 1988) (quoting **Hames v. Heckler**, 707 F.2d 162, 164 (5th Cir. 1983)).

The ALJ must apply the five-step sequential process outlined in Social Security Regulation No. 16 to determine whether an individual is disabled. **See** 20 C.F.R. §§ 404.1520(b)-(f), 416.920(b)-(f). A finding that a claimant is not disabled at any point within the five-step analysis is conclusive and terminates the inquiry. **Lovelace v. Bowen**, 813 F.2d 55, 58 (5th Cir. 1987). The ALJ determined at step five, where the burden shifted to the Secretary to show that Copeland had the residual functional capacity to perform work in the national economy, that Copeland was not disabled. **See Anderson v. Sullivan**, 887 F.2d 630, 632 (5th cir. 1989).

There is substantial evidence in the record to support the Secretary's decision that Copeland is not disabled. Dr. Smith, a consulting psychiatrist who examined Copeland in October 1989, found that Copeland has a personality disorder with schizoid and dependent features, and a dysthymic disorder with mixed symptoms of anxiety; that his psychiatric problems were considered mild to moderate; that he had a good ability to follow work rules, relate to co-workers, use judgment, interact with supervisors, and maintain attention and concentration; that he had a fair ability to deal with the public, deal with work stresses, and function independently; that he had a fair ability to understand complex job instructions, a good ability to understand detailed but not complex job instructions, and a very good ability to understand simple job instructions; and that he had mild concentration problems. Dr. Soriano, his general physician, found that although Copeland

suffers from hypertension he has no end organ damage and has no difficulty standing, moving about, sitting, lifting, speaking, avoiding common dangers, or driving motor vehicles. Additionally, Lynn Hayes, a vocational expert, testified that given Copeland's previous job experience and psychiatric limitations, there are jobs in the national and local economy that he could perform, such as hospital cleaner, lens inserter, order filler, and telephone solicitor.

Copeland argues that the ALJ should not have relied on Dr. Smith's report because his treating physician found that his psychiatric problems prevented him from working, and his subjective testimony supported this finding. The ALJ decides what weight to give a medical report and can reject the conclusions of one physician over another. **Moore v. Sullivan**, 919 F.2d 901, 905 (5th Cir. 1990); **Bradley v. Bowen**, 809 F.2d 1054, 1057 (5th Cir. 1987). The ALJ may accept the opinion of a consulting, examining physician over the opinion of the treating physician, and a specialist's opinion is afforded greater weight than a non-specialist's opinion. **Bradley**, 809 F.2d at 1057; **Moore**, 919 F.2d at 905. Dr. Smith's opinion that Copeland was able to perform work is substantial evidence in support of the Secretary's decision. We therefore affirm the Secretary's decision.

AFFIRMED.