[DO NOT PUBLISH]

In the

United States Court of Appeals

For the Eleventh Circuit

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No. 22-11181

Non-Argument Calendar

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KEVIN BURNS,

Plaintiff-Appellant,

versus

COMMISSIONER, SOCIAL SECURITY ADMINISTRATION,

Defendant-Appellee.

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Appeal from the United States District Court
for the Northern District of Florida
D.C. Docket No. 4:20-cv-00541-WS-HTC

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Before JORDAN, BRANCH, and ANDERSON, Circuit Judges.

PER CURIAM:

Kevin Burns appeals the district court's affirmance of the Social Security Administration's ("SSA") denial of his claim for child disability insurance benefits ("CIB"). He argues that the Administrative Law Judge ("ALJ") erred in failing to perform the Psychiatric Review Technique ("PRT") despite a colorable claim of mental impairment. He also argues that substantial evidence did not support the ALJ's residual functional capacity ("RFC") finding that Burns could perform light work with limitations when the ALJ did not evaluate a medical opinion in the form of a Global Assessment of Functioning ("GAF") score[1] from Nurse John Femenella.[2]

I.

[1] A GAF score is a numeric scale meant to represent a clinician's judgment of an individual's overall level of functioning. *Schink v. Comm'r of Soc. Sec.*, 935 F.3d 1245, 1253 n.1 (11th Cir. 2019) (citing Am. Psychiatric Ass'n, *Diagnostic and Statistical Manual of Mental Disorders* 32, 34 (4th ed. 2000)).

[2] We do not address arguments that have not been raised in the district court. *Stewart v. Dep't of Health & Hum. Servs.*, 26 F.3d 115, 115 (11th Cir. 1994). But we may exercise our discretion to consider the issue if the proper resolution is beyond any doubt. *Access Now, Inc. v. Sw. Airlines Co.*, 385 F.3d 1324, 1332 (11th Cir. 2004). Here, although Burns arguably forfeited both issues by failing to raise them in the district court, we exercise our discretion to consider them because the resolution of both issues is beyond any doubt.

When an ALJ denies benefits and the Appeals Council denies review, we review the ALJ's decision as the Commissioner's final decision. *Viverette v. Comm'r of Soc. Sec.*, 13 F.4th 1309, 1313-14 (11th Cir. 2021). We review a social security disability case to determine whether the Commissioner's decision is supported by substantial evidence and review *de novo* whether the ALJ applied the correct legal standards. *Id*. Our review is the same as that of the district court, so we do not defer or consider errors in the district court's opinion. *Henry v. Comm'r of Soc. Sec.*, 802 F.3d 1264, 1267 (11th Cir. 2015).

Substantial evidence is relevant evidence, less than a preponderance but greater than a scintilla, that "a reasonable person would accept as adequate to support a conclusion." *Viverette*, 13 F.4th at 1314 (quotation marks omitted). In reviewing for substantial evidence, we "may not decide the facts anew, reweigh the evidence, or substitute our judgment for that of the ALJ." *Id.* (quotation marks and brackets omitted). A decision is not based on substantial evidence if it focuses on one aspect of the evidence while disregarding contrary evidence. *McCruter v. Bowen*, 791 F.2d 1544, 1548 (11th Cir. 1986). But the ALJ need not refer to every piece of evidence in his decision, so long as a reviewing court can conclude that the ALJ considered the claimant's medical condition as a whole. *Mitchell v. Comm'r, Soc. Sec. Admin.*, 771 F.3d 780, 782 (11th Cir. 2014).

To be eligible for CIB as a child of an individual entitled to old-age or disability insurance benefits, a claimant 18 years old or older who is not a student must prove he became disabled prior to

turning 22.[3] 42 U.S.C. § 402(d)(1)(B). A claimant is disabled if he cannot engage in substantial gainful activity because of a medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for at least 12 months. *Id.* § 423(d)(1)(A).

The regulations outline a five-step evaluation process to determine whether a claimant is disabled: (1) whether the claimant is currently engaged in substantial gainful activity; (2) whether the claimant has a severe impairment or combination of impairments; (3) whether the impairment meets or equals the severity of the specified impairments in the Listing of Impairments; (4) based on an RFC assessment, whether the claimant can perform any of his past relevant work despite the impairment; and (5) whether there are significant numbers of jobs in the national economy that the claimant can perform given the claimant's RFC, age, education, and work experience. 20 C.F.R. § 404.1520(a)(4)(i)-(v). "[T]he severity of a medically ascertained disability must be measured in terms of its effect upon ability to work, and not simply in terms of deviation from purely medical standards of bodily perfection or normality." *McCruter*, 791 F.2d at 1547 (quotation marks omitted). "A medical condition that can reasonably be remedied either by

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[3] Burns turned 22 on March 25, 2006. Thus, the relevant period of time in this case is from July 1, 2004 (the alleged onset date of Burnes' disability) to March 2006, when he turned 22. However, Burns did not apply for C1B until August 16, 2018.

surgery, treatment, or medication is not disabling." *Dawkins v. Bowen*, 848 F.2d 1211, 1213 (11th Cir. 1988).

When evaluating the severity of mental impairments, the ALJ must use a special technique called the Psychiatric Review Technique ("PRT"). 20 C.F.R. § 404.1520a(a); *Moore v. Barnhart*, 405 F.3d 1208, 1213 (11th Cir. 2005). This technique requires rating how a claimant's mental impairments impact four broad functional areas: understanding, remembering, or applying information; interacting with others; concentrating, persisting, or maintaining pace; and adapting or managing oneself. 20 C.F.R. § 404.1520a(c)(3). The possible ratings are none, mild, moderate, marked, or extreme. *Id.* § 404.1520a(c)(4).

The ALJ must incorporate these results into the findings and conclusions. *Moore*, 405 F.3d at 1213-14; *see* 20 C.F.R. § 404.1520a(e)(4). It must show the significant history, including examination and laboratory findings, the functional limitations considered in reaching a conclusion about the severity of mental impairments, and a specific finding as to the degree of limitation in each of the functional areas described above. 20 C.F.R. § 404.1520a(e)(4). We have held that "where a claimant has presented a colorable claim of mental impairment, the social security regulations require the ALJ to complete a [PRT form] and append it to the decision, or incorporate its mode of analysis into his findings and conclusions. Failure to do so requires remand." *Moore*, 405 F.3d at 1214.

The ALJ did not err in failing to perform the PRT analysis because he discussed the PRT analysis in his findings and

conclusions, even if he did not complete a PRT form. The ALJ looked at examination findings to make conclusions about the degree of Burns's limitations in four functional areas: (1) understanding, remembering, or applying information; (2) interacting with others; (3) concentrating, persisting, or maintaining pace; and (4) adapting or managing oneself. *See* 20 C.F.R. § 404.1520a(c)(3), (e)(4). First, he concluded that Burns had a moderate limitation in understanding, remembering, or applying information because although February and June 2006 examinations showed intact memory, a March 2006 examination showed some memory confusion. Second, he concluded that Burns had a moderate limitation in interacting with others because the January 2006 examination reported paranoia and being easily angered, but other examinations showed he made good eye contact, was cooperative, had worked some jobs, and had moved in with friends. Third, he concluded that Burns had a mild limitation in concentrating, persisting, or maintaining pace because the February and June 2006 examinations showed intact concentration and organized thoughts, but a March 2006 examination showed poor attention and concentration. Fourth, he concluded that Burns had a moderate limitation for adapting or managing himself because he sought consistent treatment, had a good response to medications, and was not inappropriately groomed. Therefore, the ALJ performed the PRT analysis.

To the extent Burns asserts on appeal that the ALJ should have added a PRT form to its decision, that was not required because the ALJ incorporated the PRT analysis into his findings and

conclusions. *Moore*, 405 F.3d at 1214; 20 C.F.R. § 404.1520a(e)(4). Thus, the ALJ did not err by failing to perform the PRT analysis.

II.

To determine whether a claimant is disabled, the ALJ applies the five-step analysis outlined above. 20 C.F.R. § 404.1520(a)(4)(i)-(v). Before steps four and five of the process, the ALJ must assess the claimant's RFC. *Id.* § 404.1520(a)(4)(iv)-(v). A claimant's RFC is the most he can still do despite his limitations. *Id.* § 404.1545(a)(1).

The ALJ must consider all relevant record evidence regarding all the claimant's impairments, including those that are not severe. *Id.* § 404.1545(a)(1)-(2). The regulations specify five categories of evidence that an ALJ may consider: (1) objective medical evidence, (2) medical opinion, (3) other medical evidence, (4) evidence from nonmedical sources, and (5) prior administrative medical findings. *Id.* § 404.1513(a). "Objective medical evidence" is defined as "medical signs, laboratory findings, or both." *Id.* § 404.1513(a)(1). "Other medical evidence" is evidence from a medical source that is not objective medical evidence or a medical opinion, and includes judgments about the severity of impairments, clinical findings, and diagnoses.[4] *Id.* § 404.1513(a)(3). A medical opinion is a statement from a medical source about what a claimant can still do despite his impairments and whether he has

[4] For claims filed before March 27, 2017, other medical evidence does not include diagnosis, prognosis, or a judgment about the severity of an impairment. 20 C.F.R. § 404.1513(a)(3).

one or more impairment-related limitations or restrictions.[5] *Id.* § 404.1513(a)(2). The ALJ "must state with particularity the weight given to different medical opinions and the reasons therefor." *Winschel v. Comm'r of Soc. Sec.*, 631 F.3d 1176, 1179 (11th Cir. 2011).

We have referred to GAF scores as evidence that a mental impairment was severe but have noted that "GAF scores are by no means dispositive of a claim" and proceeded to point to more detailed medical evidence leading to the same conclusion. *Schink*, 935 F.3d at 1266.

For claims filed on or after March 27, 2017,[6] the ALJ will not defer or give any specific evidentiary weight, including controlling weight, to any medical opinion or prior administrative finding. 20 C.F.R. § 404.1520c(a). This regulation abrogated our earlier precedents applying the treating-physician rule. *Harner v. Soc. Sec. Admin., Comm'r*, 38 F.4th 892, 896 (11th Cir. 2022). In cases applying the treating-physician rule, we had held that to discount a treating

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[5] For claims filed before March 27, 2017, a medical opinion includes statements from a medical source that reflects judgments about the severity of impairments, symptoms, diagnosis and prognosis, what a claimant can do despite his impairments, and physical or mental restrictions. 20 C.F.R. § 1527(a)(1).

[6] For claims filed before March 27, 2017, the SSA was required to give a treating physician's opinion more weight unless there was good cause to discount it. *Harner*, 38 F.4th at 896; *see* 20 C.F.R. § 404.1527. A "treating source" is a physician or other medical source who has provided the claimant with medical treatment and has, or previously had, an ongoing treatment relationship with the claimant. 20 C.F.R. § 404.1527(a)(2).

physician's opinion, the ALJ must clearly articulate the reasons for doing so. *Schink*, 935 F.3d at 1259.

Here, substantial evidence supported the ALJ's RFC finding that Burns could do light work with certain limitations. Burns's GAF score was not a medical opinion that the ALJ was required to consider and was outside the period where Burns alleged disability. Additionally, medical records showed that Burns's impairments responded well to medication and that he had adequate understanding and memory skills, and opinions from medical consultants reinforced that finding. The ALJ was not required to refer to every piece of evidence, so long as he considered Burns's condition as a whole. *Mitchell*, 771 F.3d at 782. And this Court has noted that the ALJ need not list every GAF score because GAF scores do not necessarily reflect a person's ability to do work and are not dispositive absent other medical evidence pointing to the same conclusion. *Schink*, 935 F.3d at 1266.

And the record evidence as a whole supported the ALJ's RFC finding. Records showed Burns was involuntarily committed for a mental health examination in 2001 pursuant to Florida's Baker Act after he cut his wrist when he was high. He was seen then by Nurse Femenella, but there was a gap in medical records with no record of consistent treatment until January 2006. Thus, for the relevant period of disability from July 2004 to March 2006, there were only four sets of treatment records from January through March 2006 (although the ALJ considered later records). In January 2006, Burns was diagnosed with psychotic disorder, depressive disorder,

polysubstance dependence, and knee pain and was prescribed Risperdol, Wellbutrin, and Seroquel. By February 2006, the Risperdol had helped, and he felt his suicidal thoughts had improved. Burns had appropriate hygiene and grooming, good eye contact, cooperated, had coherent thoughts, was alert, had intact memory, and had good attention. Two weeks later, Burns reported mood swings and paranoia but improved taking Risperdol without Wellbutrin. He had the same good indicators at the last visit. In March 2006, Burns was feeling more psychotic and was slightly preoccupied with some confusion and poor attention but still had good eye contact, cooperated, was alert, and had intact memory. And doctors noted his need to stay sober, suggesting that substance abuse was contributing to his symptoms. Thus, as the ALJ noted, the objective medical evidence suggested that Burns could perform work during this period, since he was responding to medication and appeared cooperative with coherent thoughts and intact memory. *See Dawkins*, 848 F.2d at 1213. Moreover, evidence from June 2006 (outside the relevant period) suggested that Burns was doing plumbing work and considering a job with a carnival. The only medical opinions regarding the period at issue were from Dr. Brown and Dr. Conger and were consistent with this record evidence. They asserted that Burns had adequate understanding and memory skills to perform within a work setting, was mentally capable of performing routine tasks, was able to relate effectively with coworkers, and had adaptation abilities to function in a work setting. They did note moderate limitations concentrating or persisting, which is why the ALJ recommended work requiring little

to no judgment with simple duties. Therefore, substantial evidence supported the ALJ's RFC determination,

Accordingly, we affirm the district court's order affirming the ALJ's denial of Burns's application for CIB.

AFFIRMED.