[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 17-14253
Non-Argument Calendar

D.C. Docket No. 4:14-cv-02493-MHH

TIMOTHY MCCLUNG,

Plaintiff-Appellant,

versus

SOCIAL SECURITY ADMINISTRATION, COMMISSIONER,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Alabama

(August 10, 2018)

Before WILLIAM PRYOR, BRANCH and FAY, Circuit Judges.

PER CURIAM:

Timothy McClung appeals an order affirming the denial of his applications for supplemental security income and disability insurance benefits. 42 U.S.C. §§ 405(g), 1383(c)(3). McClung challenges the administrative law judge's finding that he is not intellectually disabled. McClung also challenges the administrative law judge's decisions to discount the opinions of his psychologist and treating physician and give greater weight to the opinion of a state medical consultant and to discredit McClung's testimony that his diabetes was disabling. We affirm.

Substantial evidence supports the finding of the administrative law judge that McClung was not intellectually disabled. McClung had to prove that he met or equaled an impairment included in the Listing of Impairments by providing medical reports diagnosing him with a listed impairment and documenting that he "me[t] the specific criteria of the Listings and the duration requirement" or by providing medical findings that his impairments equaled the severity and duration criteria of a listed impairment. *See Wilson v. Barnhart*, 284 F.3d 1219, 1224 (11th Cir. 2002). No medical source diagnosed McClung with a listed mental impairment. Dr. David Wilson, who administered McClung's intelligence testing, diagnosed him with borderline intellectual functioning. To qualify for disability benefits, McClung had to present evidence that his depressive disorder, cognitive deficits, and poor reading skills satisfied the criteria of a listed impairment. *See* 20 C.F.R. pt. 404, subpt. P, app. 1, § 12.05; *Crayton v. Callahan*, 120 F.3d 1217, 1219

(11th Cir. 1997). McClung contends that he satisfied the criteria of paragraph C of listing 12.05, which requires proof that he had a "valid verbal, performance, or full scale [intelligence quotient] of 60 through 70 and a physical or other mental impairment imposing an additional and significant work-related limitation of function." 20 C.F.R. pt. 404, subpt. P, app. 1, § 12.05(C). But McClung did not receive a qualifying score: his testing produced an intelligence quotient score of 73, a verbal comprehension score of 76, and a perceptual reasoning score of 82. McClung argues that his processing speed score of 68 "is the same as [a] performance score," but he cites no authority for his position. The intelligence scale manual states that a perceptual reasoning score, not a processing speed score, is the equivalent of a performance intelligence quotient score. David Wechsler et al., *Wechsler Adult Intelligence Scale: Technical and Interpretive Manual* 9 (4th ed. 2008).

Substantial evidence also supports the administrative law judge's decision to discount Dr. Wilson's opinion that McClung's depression, borderline intelligence, and poor reading skills restricted his ability to work. The administrative law judge gave little weight to the doctor's opinion—which he formed while examining McClung to determine his eligibility for disability benefits—as inconsistent with McClung's work history, his treatment records, and the evidence as a whole. *See* 20 C.F.R. § 416.927(c); *Winschel v. Comm'r of Soc. Sec.*, 631 F.3d 1176, 1179

(11th Cir. 2011). Dr. Wilson's opinion that McClung's borderline intelligence would limit his ability to work conflicted with the doctor's conclusion that McClung was capable of managing his benefits, with his successful completion of several math problems during his examination, and with the evidence that he had worked for more than 18 years, when he presumably had the same level of intelligence. *See Hodges v. Barnhart*, 276 F.3d 1265, 1268 (11th Cir. 2001) ("IQ tests create a rebuttable presumption of a fairly constant IQ throughout [a claimant's] life."). Dr. Wilson's conclusion that McClung's depression would "cause him problems in any type of work setting" was inconsistent with evidence that McClung had worked without receiving any mental health treatment or medicine to control his mood or behavior and with McClung's statements that he socialized occasionally with friends and family. The doctor's opinion also conflicted with his treatment notes recording that McClung was cooperative, composed, articulate, fully oriented, and not hyperactive or restless and that he had adequate abstraction, intact thought processes, and no abnormal thought content. Although McClung reported having a poor appetite, low energy, and suicidal ideation, Dr. Wilson attributed those symptoms to McClung's diabetes, not to his mental limitations.

Good cause supported the decision of the administrative law judge to discount the opinion of McClung's treating physician, Dr. Frederic Woriax, that

McClung's diabetes was disabling and to give greater weight to the contrary opinion expressed by Dr. Robert Heilpern, a state medical consultant. The administrative law judge gave little weight to Dr. Woriax's opinion that McClung became indefinitely disabled in 2008 or 2009 because the doctor had treated McClung only three times and acknowledged that an endocrinologist should assess McClung's condition. *See* 20 C.F.R. § 416.927(c)(2)(i); *Winschel*, 631 F.3d at 1179. Dr. Woriax's opinion conflicted with treatment notes recorded in 2008 by Dr. John Christein and of Nurse Practitioner Phillip Rodgers that McClung resumed his 12-hour workday after having his pancreas removed and managed his diabetes with diet and insulin and with evidence that McClung did not seek further treatment for his diabetes until July 2010. Dr. Woriax's opinion also conflicted with his treatment notes that McClung's condition was of "low" to "moderate complexity" to treat, that he had "[g]ood exercise habits," and that a disciplined regimen would control his diabetes. And the administrative law judge was entitled to give "significant weight" to Dr. Heilpern's physical assessment that McClung could work. Dr. Heilpern's assessment was consistent with evidence in the record that McClung continued to cook and care for himself, drive, and manage his money and with treatment notes of physicians at the Aiken Regional Medical Center, Dr. Woriax, Dr. Eric Schlueter, Dr. Ronald Liu, and Nurse Practitioner Romaine Mackey reporting that McClung could manage his diabetes with

medicine, diet, and exercise. *See* 20 C.F.R. § 416.927(c)(4).

The administrative law judge was entitled to discredit McClung's testimony about the limiting effects of his diabetes. Consistent with the regulations governing the evaluation of a claimant's testimony, the administrative law judge assessed McClung's testimony in the light of his daily activities, factors that triggered or aggravated his condition, the effectiveness of appropriate treatment, his efforts to alleviate his symptoms, and the duration, frequency, and intensity of his symptoms. *See id.* § 404.1529(c)(3). McClung's testimony that his blood sugar was uncontrollable conflicted with treatment records reporting that his diabetes was uncomplicated and could be controlled with medicine, diet, and exercise; that he refused to avail himself of insulin pens containing set doses of the medicine; and that he recovered quickly with appropriate treatment. McClung stated that he could not afford diabetes supplies, yet he admitted to spending a comparable amount on cigarettes and his medical records reflected that he declined to use a prescription assistance program and that he could have obtained free test strips from a charity. And McClung's testimony that he was unable to work conflicted with the statements in his sister's function report that he drove, shopped, cooked, took care of his personal needs, managed his finances, and fraternized with friends and family and with Dr. Woriax's medical records that McClung exercised. Substantial evidence supported the administrative law judge's finding that the objective

medical evidence contradicted McClung's subjective assessment of his impairments.

We **AFFIRM** the denial of McClung's applications for benefits.