IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

TROY TOWNSEND, JR.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	**No. 16-cv-02548-TMP**
CAROLYN W. COLVIN, Acting Commissioner of Social Security,	)	
	)	
Defendant.	)	

ORDER AFFIRMING THE COMMISSIONER'S DECISION

Before the court is plaintiff Troy Townsend Jr.'s appeal from a final decision of the Commissioner of Social Security[1] ("Commissioner") denying his application for supplemental security income ("SSI") under Title XVI of the Social Security Act (Act), 42 U.S.C. §§ 1381-1385. (ECF No. 1.) After the parties consented to the jurisdiction of the United States magistrate judge, pursuant to 28 U.S.C. § 636(c), this case was referred to the undersigned Magistrate Judge. (ECF No. 11-1.) For the following reasons, the Commissioner's decision is affirmed.

I. FINDINGS OF FACT

Townsend applied for SSI on June 18, 2014, with an alleged onset date of January 13, 2014. (R. 154-162.) In his application,

[1]Carolyn W. Colvin was the Acting Commissioner of Social Security at the time this action was filed.

Townsend alleged disability due to the following illnesses, injuries, or conditions: "anxiety, emotional, stomach, back, nervous, allergies, arthritis." (R. 75.) The Social Security Administration ("SSA") denied Townsend's application initially and upon reconsideration. (R. 74, 86.) At Townsends's request, a hearing was held before an Administrative Law Judge ("ALJ") on February 24, 2016. (R. at 111-13, 127.) On March 14, 2016, the ALJ issued a decision denying Townsends's request for benefits after finding that he was not under a disability because he retained the residual functional capacity ("RFC") to perform jobs that exist in significant numbers in the national economy. (R. 33–44.)

In his decision, the ALJ concluded that Townsend has the following severe impairments: disorder of the back, affective mood disorder, anxiety disorder, and substance abuse disorder. (R. 35.) However, the ALJ found that Townsend did not have an impairment or combination of impairments listed in or medically equal to one of the listed impairments contained within 20 C.F.R. Part 404, Subpart P, Appendix 1. (Id.) Next, the ALJ concluded that Townsend has the RFC:

> to perform medium work as defined in 20 CFR 416.967(c) except that he can frequently climb, balance, stoop, kneel, crouch, and crawl. Mentally, the claimant can understand, remember, and carry out simple, routine, repetitive tasks; can maintain concentration, persistence, and pace for these tasks throughout an eight-hour workday; can interact appropriately with supervisors, co-workers, and the general public; and an

[sic] adapt to routine workplace changes.

(R. 37.) In making that determination, the ALJ concluded that Townsend is not limited in several of the ways he alleged. For example, Townsend alleged problems with his back and arthritis. (R. 38.) However, the ALJ found that the record as a whole combined with the fact that Townsend lacked consistent treatment for that alleged condition were incompatible with a finding that Townsend suffered from a disabling disorder of the back. (Id.)

In making the RFC determination, the ALJ considered several medical opinions. (R. 42-43.) Relevant to the present action, the ALJ considered the opinions of the state agency consultants, Dr. Kamal Mohan, and Dr. Vincent Kent. (Id.) The state agency consultants concluded that Townsend:

> can lift and/or carry 50 pounds occasionally; can lift and/or carry 25 pounds frequently; can stand and/or walk for six hours in an eight-hour workday; can sit for six hours in an eight-hour work day; is unlimited in his abilities to push and/or pull other than shown for lift and/or carry; can frequently climb ramps and stairs, climb ladders, ropes, and scaffolds, balance, stoop, kneel, crouch, and crawl; and has no manipulative, visual, communicative, or environmental limitations.

(R. 42, 75-84, 87-99.) The ALJ gave those opinions great weight because he found the "assessment [to be] consistent with the longitudinal medical record[.]" (R. 42.) The ALJ also considered the opinion of Dr. Mohan, a consultative examiner, who concluded that Townsend "can stand and walk with normal breaks for six hours, [] can lift and carry 25 pounds occasionally and 25 pounds

frequently; and [] 'does not have hearing, speech, and environmental limitations.'" (Id.) The ALJ gave great weight to the majority of Dr. Mohan's opinion; however, he rejected Dr. Mohan's conclusion that Townsend could only occasionally lift and carry 25 pounds because it was overly restrictive and unsupported by the medical record. (Id.) In addition, the ALJ considered the opinion of Dr. Kent, who concluded that Townsend "can perform less than the full range of sedentary work." (Id.) The ALJ gave Dr. Kent's opinion minimal weight because nothing in the record supported his conclusion.[2] (R. 43.) Finally, the ALJ recognized that the record included opinions from other medical sources, including Dr. Linda Yates; however, he did not discuss those opinions in any detail because they "related to time-periods prior to the current alleged onset date." (Id.)

After a lengthy discussion of the RFC determination, the ALJ proceeded to the fourth step and concluded that Townsend did not have any past relevant work. (Id.) As a result, the ALJ's analysis advanced to step five where he stated that:

> considering the claimant's age, education, work experience, and residual functional capacity, there are jobs that exist in significant numbers in the national economy that the claimant can perform.

(R. 44.) In making that determination, the ALJ offered the

[2]The ALJ explicitly rejected Townsend's argument that Dr. Kent's opinion should be afforded some weight solely because he is a specialist. (R. 43.)

following analysis:

> In determining whether a successful adjustment to other work can be made, the undersigned must consider the claimant's residual functional capacity, age, education, and work experience in conjunctions with the Medical-Vocational Guidelines, 20 CFR Part 404, Subpart P, Appendix 2. If the claimant can perform all or substantially all of the exertional demands at a given level of exertion, the medical-vocational rules direct a conclusion of either "disabled" or "not disabled" depending upon the claimant's specific vocational profile (SSR 83-11). When the claimant cannot perform substantially all of the exertional demands of work at a given level of exertion and/or has nonexertional limitations, the medical-vocational rules are used as a framework for the decisionmaking unless there is a rule that directs a conclusion of disabled without considering the additional exertional and/or nonexertional limitations (SSRs 83-12 and 83-14). If the claimant has solely nonexertional limitations, section 204.00 in the Medical-Vocational Guidelines provides a framework for decisionmaking (SSR 85-15).
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> If the claimant had the residual functional capacity to perform the full range of medium work, considering the claimant's age, education, and work experience, a finding of "not disabled" would be directed by Medical-Vocational Rule 203.13. However, the additional limitations have little or no effect on the occupational base of unskilled medium work. A finding of "not disabled" is therefore appropriate under the framework of this rule and Social Security Rulings 83-14 and 85-15.

(Id.) Accordingly, the ALJ concluded that Townsend was not disabled and was therefore not entitled to SSI. On June 10, 2016, the Appeals Council denied Townsend's request for review, making the ALJ's decision the final decision of the Commissioner. (R. 1.)

Townsend filed the instant action on July 4, 2016, seeking review of the ALJ's decision.[3] (ECF No. 1.) In his appeal,

[3]The court notes that the complaint filed at ECF No. 1 is actually

Townsend raises four arguments. Townsend initially argues that the ALJ erred by relying on the Medical-Vocational Guidelines, 20 C.F.R. Pt. 404, Subpt. P, App. 2, at step five and was required to obtain testimony from a vocational expert ("VE"). (ECF No. 12-1 at 5-7.) Second, Townsend argues that the ALJ's RFC determination is unsupported by substantial evidence. (Id. at 7-9.) Next, Townsend argues that the ALJ erred in weighing several of the medical opinions contained within the record. (Id. at 11.) Finally, Townsend argues that the ALJ erred by not classifying several of Townsend's impairment as severe impairments at step two. (Id. at 11-17.)[4]

II. CONCLUSIONS OF LAW

A. Standard of Review

Under 42 U.S.C. § 405(g), a claimant may obtain judicial review of any final decision made by the Commissioner after a hearing to which he or she was a party. "The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the

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a complaint captioned Peyton v. Commissioner of Social Security, 2:15-cv-2378, which is a different case filed by the same attorney in this district. Because the parties have briefed the issues relevant to Townsend, the court will address the merits of this appeal even though plaintiff filed the wrong complaint.

[4]For clarity, the court addresses Townsend's arguments in accordance with the five-step analysis. In other words, the court begins with Townsend's step two argument and ends with the argument

cause for a rehearing." 42 U.S.C. § 405(g). Judicial review of the Commissioner's decision is limited to whether there is substantial evidence to support the decision and whether the Commissioner used the proper legal criteria in making the decision. Id.; Winn v. Comm'r of Soc. Sec., 615 F. App'x 315, 320 (6th Cir. 2015); Cole v. Astrue, 661 F.3d 931, 937 (6th Cir. 2011); Rogers v. Comm'r of Soc. Sec., 486 F.3d 234, 241 (6th Cir. 2007). Substantial evidence is more than a scintilla of evidence but less than a preponderance, and is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." Kirk v. Sec'y of Health & Human Servs., 667 F.2d 524, 535 (6th Cir. 1981) (quoting Richardson v. Perales, 402 U.S. 389, 401 (1971)).

In determining whether substantial evidence exists, the reviewing court must examine the evidence in the record as a whole and "must 'take into account whatever in the record fairly detracts from its weight.'" Abbott v. Sullivan, 905 F.2d 918, 923 (6th Cir. 1990) (quoting Garner v. Heckler, 745 F.2d 383, 388 (6th Cir. 1984)). If substantial evidence is found to support the Commissioner's decision, however, the court must affirm that decision and "may not even inquire whether the record could support a decision the other way." Barker v. Shalala, 40 F.3d 789, 794 (6th Cir. 1994) (quoting Smith v. Sec'y of Health & Human Servs., 893 F.2d 106, 108 (6th Cir. 1989)). Similarly, the court may not

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related to step five.

try the case *de novo*, resolve conflicts in the evidence, or decide questions of credibility. Ulman v. Comm'r of Soc. Sec., 693 F.3d 709, 713 (6th Cir. 2012) (citing Bass v. McMahon, 499 F.3d 506, 509 (6th Cir. 2007)). Rather, the Commissioner, not the court, is charged with the duty to weigh the evidence, to make credibility determinations, and to resolve material conflicts in the testimony. Walters v. Comm'r of Soc. Sec., 127 F.3d 525, 528 (6th Cir. 1997); Crum v. Sullivan, 921 F.2d 642, 644 (6th Cir. 1990); Kiner v. Colvin, No. 12-2254-JDT, 2015 WL 1295675, at *1 (W.D. Tenn. Mar. 23, 2015).

B. The Five-Step Analysis

The Act defines disability as the "inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months." 42 U.S.C. § 423(d)(1). Additionally, section 423(d)(2) of the Act states that:

> An individual shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to any individual), "work which exists in the national economy" means work which exists in significant numbers either in

> the region where such individual lives or in several regions of the country.

Under the Act, the claimant bears the ultimate burden of establishing an entitlement to benefits. Oliver v. Comm'r of Soc. Sec., 415 F. App'x 681, 682 (6th Cir. 2011). The initial burden is on the claimant to prove she has a disability as defined by the Act. Siebert v. Comm'r of Soc. Sec., 105 F. App'x 744, 746 (6th Cir. 2004) (citing Walters, 127 F.3d at 529); see also Born v. Sec'y of Health & Human Servs., 923 F.2d 1168, 1173 (6th Cir. 1990). If the claimant is able to do so, the burden then shifts to the Commissioner to demonstrate the existence of available employment compatible with the claimant's disability and background. Born, 923 F.2d at 1173; see also Griffith v. Comm'r of Soc. Sec., 582 F. App'x 555, 559 (6th Cir. 2014).

Entitlement to social security benefits is determined by a five-step sequential analysis set forth in the Social Security Regulations. See 20 C.F.R. §§ 404.1520 & 416.920. First, the claimant must not be engaged in substantial gainful activity. See 20 C.F.R. §§ 404.1520(b) & 416.920(b). Second, a finding must be made that the claimant suffers from a severe impairment. 20 C.F.R. §§ 404.1520(a)(4)(ii) & 416.920(a)(5)(ii). In the third step, the ALJ determines whether the impairment meets or equals the severity criteria set forth in the Listing of Impairments contained in the Social Security Regulations. See 20 C.F.R. §§ 404.1520(d), 404.1525, 404.1526. If the impairment satisfies the criteria for a

listed impairment, the claimant is considered to be disabled. On the other hand, if the claimant's impairment does not meet or equal a listed impairment, the ALJ must undertake the fourth step in the analysis and determine whether the claimant has the RFC to return to any past relevant work. See 20 C.F.R. §§ 404.1520(a)(4)(iv) & 404.1520(e). If the ALJ determines that the claimant can return to past relevant work, then a finding of not disabled must be entered. Id. But if the ALJ finds the claimant unable to perform past relevant work, then at the fifth step the ALJ must determine whether the claimant can perform other work existing in significant numbers in the national economy. See 20 C.F.R. §§ 404.1520(a)(4)(v), 404.1520(g)(1), 416.960(c)(1)-(2). Further review is not necessary if it is determined that an individual is not disabled at any point in this sequential analysis. 20 C.F.R. § 404.1520(a)(4).

C. Whether the ALJ Erred at Step Two

At step two, the ALJ concluded that Townsend has the following severe impairments: disorder of the back, affective mood disorder, anxiety disorder, and substance abuse disorder. (R.35.) On appeal, Townsend argues that the ALJ erred by not concluding that several other of Townsend's impairments qualified as severe impairments. (ECF No. 12-1 at 11.) Specifically, Townsend argues that the following impairments qualify as severe: right inguinal hernia, emphysema, heart problems, clubbing in the extremities,

cervical degenerative disc disease, cataracts, degenerative join disease of the knees, chronic pain, and radiculopathy. (Id.) In response, the Commissioner argues that the ALJ considered all of Townsend's impairments when determining his RFC and therefore no reversible error exists. (ECF No. 15 at 5.)

A severe impairment is "any impairment or combination of impairments which significantly limits [a claimant's] physical or mental ability to do basic work activities." 20 C.F.R. § 416.920(c). The Sixth Circuit has stated that "the severity determination is a de minimis hurdle in the disability determination process" meant only to "screen out totally groundless claims." Anthony v. Astrue, 266 F. App'x 451, 457 (6th Cir. 2008) (quoting Higgs v. Bowen, 880 F.2d 860, 862 (6th Cir. 1988) and Farris v. Sec'y of Health & Human Servs., 773 F.2d 85, 89 (6th Cir. 1985)) (internal quotation marks omitted). "[A]n impairment can be considered not severe only if it is a slight abnormality that minimally affects work ability regardless of age, education and experience." Id. (internal citation and quotation omitted).

When an ALJ determines a claimant's RFC, he "must consider limitations and restrictions imposed by all of [the claimant's] impairments, even those that are not 'severe.'" SSR 96–8p, 1996 WL 374184, at *5 (July 2, 1996); see also 20 C.F.R. § 404.1545(a)(2) ("We will consider all of your medically determinable impairments of which we are aware, including your medically determinable

impairments that are not 'severe,' . . . when we assess your residual functional capacity."). "[S]o long as the ALJ considers all of the individual's impairments, the 'failure to find additional severe impairments . . . does not constitute reversible error.'" Kirkland v. Comm'r of Soc. Sec., 528 F. App'x 425, 427 (6th Cir. 2013) (quoting Fisk v. Astrue, 253 F. App'x 580, 583 (6th Cir. 2007)); see also Maziarz v. Sec'y of Health & Human Servs., 837 F.2d 240, 244 (6th Cir. 1987) (holding that the ALJ's failure to classify an impairment as severe was harmless error because other impairments were deemed severe).

Townsend argues that the ALJ's failure to classify several of his impairments as severe created reversible error. However, at step two, the ALJ found that Townsend has multiple other severe impairments. (R.35.) As a result, Townsend's claim proceeded past step two of the five-step analysis. "Because the ALJ is [subsequently] required to consider all of a claimant's impairments (severe and non-severe), '[t]he fact that some of [claimant's] impairments were not deemed to be severe at Step Two is therefore legally irrelevant.'" Overton v. Comm'r of Soc. Sec., No. 16-2444, 2018 WL 3458495, at *5 (W.D. Tenn. July 18, 2018) (quoting Anthony, 266 F. App'x at 457)). Accordingly, the court finds that the ALJ did not commit reversible error when determining the severity of Townsend's impairments.

D. Whether the ALJ's RFC Determination Was Supported by Substantial Evidence

The "Social Security Act instructs that the ALJ — not a physician — ultimately determines a claimant's RFC." Coldiron v. Comm'r of Soc. Sec., 291 F. App'x 435, 439 (6th Cir. 2010); see also Rudd v. Comm'r of Soc. Sec., 531 F. App'x 719, 728 (6th Cir. 2013) ("[T]o require the ALJ to base her RFC finding on a physician's opinion, would, in effect, confer upon the treating source the authority to make the determination or decision about whether an individual is under a disability, and thus would be an abdication of the Commissioner's statutory responsibility to determine whether an individual is disabled.") (internal quotation marks and citation omitted); Nejat v. Comm'r of Soc. Sec., 359 F. App'x 574, 578 (6th Cir. 2009) ("Although physicians opine on a claimant's residual functional capacity to work, ultimate responsibility for capacity-to-work determinations belongs to the Commissioner."); Webb v. Comm'r of Soc. Sec., 368 F.3d 629, 633 (6th Cir. 2004) (stating that under the SSA regulations, "the ALJ is charged with the responsibility of evaluating the medical evidence and the claimant's testimony to form an 'assessment of [her] residual functional capacity'" (quoting 20 C.F.R. § 416.920(a)(4)(iv))).

Townsend argues that the ALJ erred in determining that he has the RFC to perform medium work. (ECF No. 12-1 at 7-9.) In making this argument, Townsend points to several "admissions" the ALJ made that purportedly contradicts the ALJ's conclusion that Townsend has

the RFC to perform medium work. (Id. at 8.) For example, Townsend asserts that the ALJ "admitted that the Plaintiff had a 'disorder of the back' and degenerative spurring." (Id.) However, the ALJ noted that "the record after the alleged onset does not contain any significant, ongoing treatment related to these allegations." (R. 38.) Ultimately, the ALJ concluded that Townsend did not suffer from "disabling disorder of the back or other disabling musculoskeletal impairment." (Id.)

Townsend also contends that he has pain in his right leg, which requires him to constantly walk with a cane. (ECF No. 12-1 at 8.) Because he alleges that he needs to use a cane to walk, he argues that the ALJ erred in determining that Townsend has the RFC to perform medium work. This argument is without merit because the ALJ's conclusion was supported by substantial evidence. Specifically, the ALJ supported his conclusion with Dr. Mohan's opinion, which recognized that Townsend does not need the cane to walk. (R. 38.) In sum, the ALJ considered all of Townsend's alleged impairments and thoroughly reasoned why Townsend has the RFC to perform medium work. (See generally R. 38-43.) Accordingly, the ALJ's RFC determination was supported by substantial evidence.[5]

[5]Townsend also argues that the ALJ erred when making the RFC determination because he gave inappropriate weight to the opinions of Dr. Kamal Mohan. The court will address this argument when discussing Townsend's argument that the ALJ erred in giving the appropriate weight to various medical opinions. See infra Part E.

E. Whether the ALJ Erred in Weighing the Medical Opinions in the Record

Townsend argues that the ALJ did not give proper weight to the medical opinions contained within the record. (ECF No. 12-1 at 9-11.) Specifically, Townsend claims that the ALJ improperly weighed the opinions of Dr. Mohan, Dr. Kent, Dr. Yates, and the state agency consultants. (Id. at 9.) In formulating an RFC finding, "the ALJ evaluates all relevant medical and other evidence and considers what weight to assign to treating, consultative, and examining physicians' opinions." Eslinger v. Comm'r of Soc. Sec., 476 F. App'x 618, 621 (6th Cir. 2012) (citing 20 C.F.R. § 404.1545(a)(3)); see also Ealy v. Comm'r of Soc. Sec., 594 F.3d 504, 514 (6th Cir. 2010). "An opinion from a treating physician is 'accorded the most deference by the SSA' because of the 'ongoing treatment relationship' between the patient and the opining physician. A nontreating source, who physically examines the patient 'but does not have, or did not have an ongoing treatment relationship with' the patient, falls next along the continuum. A nonexamining source, who provides an opinion based solely on review of the patient's existing medical records, is afforded the least deference." Norris v. Comm'r of Soc. Sec., 461 F. App'x 433, 439 (6th Cir. 2012) (quoting Smith v. Comm'r of Soc. Sec., 482 F.3d 873, 875 (6th Cir. 2007)) (internal citations omitted).

1. Whether the ALJ Gave Proper Weight to Dr. Mohan's Opinion

The ALJ gave "great weight to the majority of Dr. Mohan's opinions," but gave "minimal weight to his opinion that the claimant can lift and/or carry 25 pounds occasionally[.]" (R.42.) Townsend argues that the ALJ erred in assigning weight in that manner because an ALJ "is not entitled to pick and choose from a medical opinion, using only those parts that are favorable to a finding of non-disability." (ECF No. 12-1 at 9.) Townsend further argues that the ALJ should have relied on Dr. Mohan's entire opinion. According to Townsend, if the ALJ would have relied on Dr. Mohan's entire opinion then the ALJ would have concluded that Townsend "would only be capable of performing light weight [sic] and would be considered 'disabled' under Medical Vocational Rule 202.04." (Id.)

Dr. Mohan is a consultative examiner and "the opinion of a consultative examiner . . . is usually entitled to less weight than that of a treating physician." Dykes ex rel. Brymer v. Barnhart, 112 F. App'x 463, 468 (6th Cir. 2004). However, "ALJs must [still] evaluate every medical opinion [they] receive by considering several enumerated factors, including the nature and length of the doctor's relationship with the claimant and whether the opinion is supported by medical evidence and consistent with the rest of the record." Stacey v. Comm'r of Soc. Sec., 451 F. App'x 517, 519 (6th Cir. 2011). When an ALJ's decision rejects the opinion of a consultative expert, the decision "must say enough to allow the

appellate court to trace the path of [the ALJ's] reasoning." Id. (internal citation and quotation omitted). However, the ALJ need not discuss every detail within the consultative expert's opinion. In Dykes, the Sixth Circuit held that an "ALJ's failure . . . to explain why he disregarded part of the opinion of a consultative examiner does not warrant reversal." Id.

Here, the ALJ accepted the majority of Dr. Mohan's opinion but rejected Dr. Mohan's conclusion that Townsend could lift and carry twenty-five pounds occasionally. (R. 42.) The ALJ offered specific reasons why he rejected that portion of Dr. Mohan's opinion. Specifically, the ALJ stated that Dr. Mohan's conclusion that Townsend could lift twenty-five pounds occasionally "is overly restrictive and is not supported by the objective medical evidence, including [Dr. Mohan's] own findings of normal range of motion of the cervical and lumbar spine." (Id.) The ALJ's decision to discount a portion of Dr. Mohan's opinion is supported by substantial evidence. Therefore, the court finds that the ALJ did not err in the amount of weight he afforded to Dr. Mohan's opinion.

2. Whether the ALJ Gave Proper Weight to Dr. Kent's Opinion

In his opinion, the ALJ considered and gave "minimal weight to the assessment of Dr. Vincent Kent, whose function-by-function assessment indicates that the plaintiff can perform less than the full range of sedentary work." (R. 42.) Townsend contends that the ALJ erred by giving Dr. Kent's opinion minimal weight. (ECF No.

12-1 at 10.) Specifically, Townsend argues that Dr. Kent is a specialist, and specialists' opinions should be given more weight than opinions of non-specialists. (Id.) Townsend is correct that a specialist's opinion should be given more weight than the opinion of a non-specialist. See 20 C.F.R. § 416.927(c)(5). However, the fact that Dr. Kent is a specialist is just one factor for an ALJ to consider. An ALJ should also consider whether Dr. Kent's medical opinion is consistent with the record as a whole. See 20 C.F.R. § 416.927(c)(4) ("Generally, the more consistent a medical opinion is with the record as a whole, the more weight we will give to that medical opinion."). In his decision, the ALJ recognized that Dr. Kent is a specialist; however, he ultimately gave Dr. Kent's opinion minimal weight because "neither the findings of Dr. Kent, nor the record as a whole, contain clinical or laboratory evidence of any pathology that could impose the degree of functional limitation that he opined to be present." (R. 43.) In addition, the ALJ noted that "while Dr. Kent may have a 'specialty' in orthopedic surgery, he is not a treating source and his findings are not supported by the longitudinal medical record." (Id.) The court concludes that the ALJ's decision to give Dr. Kent's opinion minimal weight is supported by substantial evidence.

3. Whether the ALJ Gave Proper Weight to Dr. Yates's Opinion

Next, Townsend argues that the ALJ erred by failing to consider Dr. Yates's opinion. (ECF No. 12-1 at 10.) While the

"ALJ must consider all medical opinions in conjunction with any other relevant evidence received in order to determine if a claimant is disabled, . . . he need not specifically address each medical opinion or piece of evidence in order to adequately consider the record in its entirety." Grant v. Colvin, No. 3:14-cv-399, 2015 WL 4713662, at *12 (E.D. Tenn. Aug. 7, 2015). Although the ALJ did not explicitly discuss Dr. Yates's opinion, he noted "that the record contains at least four other residual functional capacity statements/medical source statements (See Exhibits 2F, 3F, 4F, & 5F). However, these Exhibits are all associated with prior applications and are all related to time-periods prior to the current alleged onset date." (R. 43.) One of those exhibits is the report of Dr. Yates, who examined Townsend on July 27, 2011. (R. 445-453.) Townsend filed the underlying application for SSI on June 18, 2014, and in the application Townsend alleged an onset date of January 13, 2014. (R.163.) Therefore, the ALJ adequately explained why Dr. Yates's opinion was not relevant to the disability determination.

4. Whether the ALJ Gave Proper Weight to the State Agency Consultants' Opinions

Finally, Townsend argues that the ALJ erred by giving great weight to the assessment of the state agency consultants. (ECF No. 12-1 at 10-11.) "Generally, an ALJ may rely on a state agency consultant's medical opinion in the same manner that she may rely on other physician opinions." Cogswell ex rel. Cogswell v. Comm'r

of Soc. Sec., No. 3:16-cv-2030, 2018 WL 3215721, at *2 (N.D. Ohio July 2, 2018). "Thus, an ALJ may provide greater weight to a state agency physician's opinion when the physician's finding and rationale are supported by evidence in the record." Reeves v. Comm'r of Soc. Sec., 618 F. App'x 267, 274 (6th Cir. 2015); see also Hoskins v. Comm'r of Soc. Sec., 106 F. App'x 412, 415 (6th Cir. 2004) ("State agency medical consultants are considered experts and their opinions may be entitled to greater weight if their opinions are supported by the evidence."). In his decision, the ALJ gave "great weight to the assessment of the State Agency consultants." (R. 42.) Townsend argues that this decision was erroneous because the "state agency consultants never examined the Plaintiff and are most likely not practicing physicians." (ECF No. 12-1 at 11.) This argument is without merit because the ALJ explained why the opinions of the state agency consultants were given great weight. Specifically, the ALJ asserted that the state agency consultants' "assessment is consistent with the longitudinal medical record," including the medical opinion of Dr. Mohan and Townsend's VA medical records. (R. 42.) Therefore, the ALJ's decision to give the state agency consultants' opinion great weight is supported by substantial evidence.

F. Whether the ALJ's Reliance on the Medical-Vocational Guidelines was Appropriate

Townsend argues that the ALJ's reliance on the Medical-Vocational Guidelines, 20 C.F.R. Pt. 404, Subpt. P, App. 2 (the

"grids"), and SSR 83-14 and 85-15, at step five was inappropriate because Townsend suffers from nonexertional impairments that erode his ability to work at the given exertional level. (ECF No. 12-1 at 5.) Further, Townsend argues that the ALJ should have obtained testimony from a VE when making the step five determination. (Id. at 7.)

"At step five of the sequential analysis, the Commissioner carries the burden of proving the availability of jobs in the national economy that a claimant is capable of performing." Strimel v. Berryhill, No. 2:16-cv-226, 2017 WL 4127610, at *7 (E.D. Tenn. Sep. 15, 2017). "The Commissioner can accomplish this by employing the grids found at 20 C.F.R. Pt. 404, Subpt. P, App. 2." Amir v. Comm'r of Soc. Sec., 705 F. App'x 443, 451 (6th Cir. 2017). "The grids are composed of rules which specify whether a claimant will be found disabled or not through a particular combination of four factors: exertional capacity, age, education, and previous work experience." Id. Generally, "where a claimant has nonexertional impairments alone or in combination with exertional limitations, the ALJ must treat the Grids as only a framework for decisionmaking, and must rely on other evidence to determine whether a significant number of jobs exist in the national economy that a claimant can perform."[6] Jordan v. Comm'r of Soc. Sec., 548

[6]Exertional limitations are limitations on a person's ability to meet the seven strength demands of sitting, standing, walking, lifting, carrying, pushing, and pulling at the level required by

F.3d 417, 424 (6th Cir. 2008) (citing Burton v. Sec'y of Health & Human Servs., 893 F.2d 821, 822 (6th Cir. 1990)). The Sixth Circuit has also stated that "[t]he Commissioner may meet his burden at step five by referring to the Grids unless the claimant has a 'nonexertional limitation[ ] that significantly limit[s] the range of work permitted by his exertional limitations.'" Collins v. Comm'r of Soc. Sec., 357 F. App'x 663, 670 (6th Cir. 2009) (quoting Cole v. Sec'y of Health & Hum. Servs., 820 F.2d 768, 771 (6th Cir.1987)); see also Maze v. Colvin, No. 16-cv-1138, 2018 WL 3599968, at *6 (W.D. Tenn. July 27, 2018) ("[T]he ALJ [properly] treated the grids as requiring him to find [the claimant] not disabled . . . because the nonexertional limitations the ALJ found [the claimant] to possess did not 'significantly limit the range of work permitted by [her] exertional limitations[.]'" (quoting Collins, 357 F. App'x at 670)); Strimel, 2017 WL 4127610, at *7-8 ("An allegation of a nonexertional limit is insufficient to eliminate the grids as an option; rather the key factor is 'whether the alleged impairment is severe enough to alter the conclusion that the claimant could do a full range of work at the specified level.'" (quoting Cole, 820 F.2d at 772)).

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the level of work at issue. 20 C.F.R § 404.1569a(b). Non-exertional limitations affect a person's ability to meet the other demands of jobs and include mental limitations, pain limitations, and all physical limitations that are not included in the seven strength demands. 20 C.F.R § 404.1569a(c).

At step five in this case, the ALJ offered the following analysis:

> In determining whether a successful adjustment to other work can be made, the undersigned must consider the claimant's residual functional capacity, age, education, and work experience in conjunctions with the Medical-Vocational Guidelines, 20 CFR Part 404, Subpart P, Appendix 2. If the claimant can perform all or substantially all of the exertional demands at a given level of exertion, the medical-vocational rules direct a conclusion of either "disabled" or "not disabled" depending upon the claimant's specific vocational profile (SSR 83-11). When the claimant cannot perform substantially all of the exertional demands of work at a given level of exertion and/or has nonexertional limitations, the medical-vocational rules are used as a framework for the decisionmaking unless there is a rule that directs a conclusion of disabled without considering the additional exertional and/or nonexertional limitations (SSRs 83-12 and 83-14). If the claimant has solely nonexertional limitations, section 204.00 in the Medical-Vocational Guidelines provides a framework for decisionmaking (SSR 85-15).
>
> If the claimant had the residual functional capacity to perform the full range of medium work, considering the claimant's age, education, and work experience, a finding of "not disabled" would be directed by Medical-Vocational Rule 203.13. However, the additional limitations have little or no effect on the occupational base of unskilled medium work. A finding of "not disabled" is therefore appropriate under the framework of this rule and Social Security Rulings 83-14 and 85-15.

(R. 44.)

While the ALJ did not extensively discuss the applicability of SSR 83-14 and 85-15, the ALJ's RFC determination contains language similar to the language found within SSR 85-15. "The ruling describes the mental demands of unskilled work as 'the abilities (on a sustained basis) to understand, carry out, and remember

simple instructions; to respond appropriately to supervision, coworkers, and usual work situations; and to deal with changes in a routine work setting.'" Collins, 357 F. App'x at 671 (quoting SSR 85-15, 1985 WL 56857, *4). The ruling also provides support for the ALJ's conclusion that one who "can frequently climb, balance, stoop, kneel, crouch, and crawl" is able to perform the full range of medium work. See SSR 85-15, 1985 WL 56857, *6-7. Here, in making the RFC determination, the ALJ found:

> [T]he claimant has the residual functional capacity to perform medium work as defined in 20 CFR 416.967(c) except that he can frequently climb, balance, stoop, kneel, crouch, and crawl. Mentally, the claimant can understand, remember, and carry out simple, routine, repetitive tasks; can maintain concentration, persistence, and pace for these tasks throughout an eight-hour workday; can interact appropriately with supervisors, co-workers, and the general public; and an [sic] adapt to routine workplace changes.

(Id. at 37.) As discussed above, the ALJ's RFC determination was supported by substantial evidence. See supra Part D. Significantly, that determination does not include any exertional limitation that prevents Townsend from performing the full range of medium work. Additionally, in the RFC finding, the ALJ found that Townsend could perform medium work except that he could frequently climb, balance, stoop, kneel, crouch, and crawl. The RFC also described Townsend's ability to mentally perform the full range of medium work. Townsend argues that those "limitations" qualify as nonexertional limitations, which prohibited the ALJ from solely relying on the grids at step five. However, to the extent those

qualify as nonexertional limitations, they do not "significantly limit the range of work permitted by [Townsend's] exertional limitations[.]" Collins, 357 F. App'x at 671 (internal citation and quotation omitted); see also Watkins v. Astrue, No. 1:10-cv-486, 2011 WL 4478487, at *12 (N.D. Ohio Sep. 26, 2012) ("[B]ecause substantial evidence supports the ALJ's finding that Plaintiff's nonexertional impairments did not significantly diminish the number of jobs available at any exertional level, the Court finds that the ALJ's reliance upon the grids was proper."). Accordingly, the ALJ's reliance on the grids in this case was appropriate.

III. CONCLUSION

For the reasons above, the Commissioner's decision is affirmed.

IT IS SO ORDERED.

s/ Tu M. Pham
TU M. PHAM
United States Magistrate Judge

December 12, 2018
Date