

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

PATRICIA RIOS, :
 :
 Plaintiff, :
 :
 v. : Civil Action No. 00-56-JJF
 :
 KENNETH S. APFEL, :
 Commissioner of Social :
 Security, :
 :
 Defendant. :

Mary Catherine Landis, Esq. of DOROSHOW, PASQUALE, KRAWITZ,
SIEGEL & BHAYA, Wilmington, Delaware.
Attorney for Plaintiff.

Carl Schnee, Esquire, United States Attorney, and Paulette K.
Nash, Esquire, Assistant United States Attorney, of the OFFICE OF
THE UNITED STATES ATTORNEY, Wilmington, Delaware.
Of Counsel: James A. Winn, Esquire, Regional Chief Counsel, and
Joyce M.J. Gordon, Esquire, Assistant Regional Counsel of the
SOCIAL SECURITY ADMINISTRATION, Philadelphia, Pennsylvania.
Attorneys for Defendant.

MEMORANDUM OPINION

March 7, 2001

Wilmington, Delaware

Farnan, District Judge.

Presently before the Court is an appeal pursuant to 42 U.S.C. § 405(g), filed by Plaintiff, Patricia Rios, seeking review of the final administrative decision of the Commissioner of the Social Security Administration denying Plaintiff Supplemental Security Income under Title XVI of the Social Security Act, 42 U.S.C. § 1381-1383 (the "Act"). Plaintiff has filed a Motion For Summary Judgment (D.I. 12) requesting the Court to reverse the findings of the Commissioner and award Plaintiff benefits, or in the alternative, to remand this case to the Administrative Law Judge. In response to Plaintiff's Motion, Defendant has filed a Cross-Motion For Summary Judgment (D.I. 16) requesting the Court to affirm the Commissioner's decision. For the reasons set forth below, Defendant's Motion For Summary Judgment will be granted and Plaintiff's Motion For Summary Judgment will be denied. The decision of the Commissioner will be affirmed.

BACKGROUND

I. Procedural Background

On July 18, 1995 Plaintiff filed an application for Supplemental Security Income ("SSI") alleging that she was disabled due to obsessive compulsive disorder, depression and musculoskeletal complaints. (Tr. 65-71). Plaintiff's application was denied initially and on reconsideration. On July

3, 1996, Plaintiff filed a timely Request for Hearing by an Administrative Law Judge (Tr. 99-103).

On December, 19, 1997, an administrative law judge (the "A.L.J.") conducted a hearing on Plaintiff's claims. On January 28, 1998, the A.L.J. issued a decision denying Plaintiff SSI benefits. (Tr. 14-31). Following the unfavorable decision, Plaintiff filed a timely Request For Review Of Hearing Decision. On December 16, 1999, the Appeals Council denied Plaintiff's request. (Tr. 7-8). On March 3, 2000, the Appeals Council vacated its previous decision to consider additional evidence, however; the Appeals Council ultimately concluded that there was no basis to review the A.L.J.'s decision.

After completing the process of administrative review, Plaintiff filed the instant civil action pursuant to 42 U.S.C. § 1383(c)(3), which incorporates by reference 42 U.S.C. § 405(g), seeking review of the A.L.J.'s decision denying her claim for SSI benefits. In response to the Complaint, Defendant filed an Answer and the Transcript of the proceedings at the administrative level.

Thereafter, Plaintiff filed a Motion For Summary Judgment and Opening Brief in support of the Motion. In lieu of an Answering Brief, Defendant filed a Cross-Motion For Summary Judgment requesting the Court to affirm the A.L.J.'s decision. By letter, Plaintiff has waived her right to file a Reply Brief. (D.I. 18). Accordingly, this matter is ripe for the Court's

review.

II. Factual Background

A. Plaintiff's Medical History, Condition and Treatment

At the time of the hearing in this case, Plaintiff was a forty-four year old female with a high school equivalency diploma. Plaintiff's past relevant work experience included employment as a part-time maid and nurse assistance. However, Plaintiff had no past work experience within the last fifteen years and relied on public assistance for support.

From May 1995 through June 15, 1995, Plaintiff treated with Southern Chester County Medical Center Addiction Recovery Center for a heroin addiction. During her treatment, Plaintiff exhibited symptoms of depression and obsessive compulsive disorder and was given Luvox and Deseryl for her obsessive compulsive disorder and Trazodone to help her sleep. Daniel B. Block, M.D. evaluated Plaintiff and concluded that Plaintiff's thought content revealed obsessions, compulsions, low self-esteem and depression. Dr. Block also noted a passive death wish. However, Dr. Block indicated that Plaintiff did not display any psychotic symptoms such as hallucinations, delusions or paranoia and that her cognitive function was essentially unimpaired. Dr. Block assessed Plaintiff as having a Global Assessment Function of 60, a score indicative of moderate symptoms.¹ (Tr. 171-173).

¹ The global assessment of functioning (GAF) scale is a hypothetical continuum of mental health. An individual with a

After her treatment at Southern Chester County Medical Center, Plaintiff began treating with New Castle County Community Mental Health Center ("NCCMH"). (R. 224-358). Records from NCCMH indicate that Plaintiff "self-referred" herself for treatment, because she had no means of support. During her treatment at NCCMH, Plaintiff was evaluated by Tengiz Alatur, M.D., who noted that Plaintiff had a history of depression and heroin and alcohol addiction. Evaluating her "content of thought," Dr. Alatur noted that Plaintiff was obsessive compulsive, self-depreciating, and had paranoid delusions. However, Dr. Alatur noted an absence of any hallucinations or illusions. With respect to Plaintiff's cognitive status, Dr. Alatur noted that Plaintiff was alert, oriented, concentrated adequately, and had an average level of intelligence. Evaluating Plaintiff's judgment and insight, Dr. Alatur found that Plaintiff had poor common sense, impulse control, intellectual insight and emotional insight. (Tr. 119). Dr. Alatur's diagnosis of Plaintiff included major, recurrent depression, obsessive compulsive disorder and heroin dependence. (Tr. 121). Dr. Alatur assessed Plaintiff as having a GAF score of 55 and

score of between 51 and 60 is an individual with moderate symptoms such as flat affect, circumstantial speech, and occasional panic attacks, or an individual with moderate difficulty in social, occupational, or school functioning such as maintaining few friendships or engaging in conflicts with peer and co-workers. Diagnostic and Statistical Manual of Mental Disorders 32 (4th Ed. 1996)

continued to treat Plaintiff with Luvox and Deseryl.

Throughout her treatment at NCCMH, Plaintiff continued to suffer from low self-esteem, feelings of inadequacy and rejection from childhood. She also exhibited symptoms of depression and anxiety during some visits. (Tr. 128, 133, 136, 141). However, at other visits, Plaintiff was noted to be psychiatrically compliant and stable. (Tr. 138-140).

In December 1995, Plaintiff reported increased depression for a two week period. (Tr. 136). However, in February 1996, Plaintiff reported that her medication reduced her symptoms to a manageable level. (Tr. 133). Then, in May 1996, Plaintiff was evaluated by Dr. Alatur again for complaints of depressed mood and suicidal feelings. In his mental status examination, Dr. Alatur reported that Plaintiff was cooperative and pleasant, but had a depressed mood with crying spells and suicidal feelings without suicidal intentions. Plaintiff's thought process and thought content were noted to be "ok." (Tr. 145). Dr. Alatur again diagnosed Plaintiff with major depression, recurrent, and heroin dependence. Dr. Alatur evaluated Plaintiff with a GAF score of 55. Although Dr. Alatur indicated that Plaintiff had the ability to handle benefits, Dr. Alatur did not complete that portion of the assessment related to Plaintiff's ability to perform mental work-related functions. (Tr. 146).

From April 25, 1996 through May 27, 1996, Plaintiff treated with St. Francis Hospital Behavior Health Associates. Plaintiff

continued to complain of depression and suicidal feelings. (Tr. 204). In addition, Plaintiff felt that her compulsive behavior was returning, so her medication was increased. (R. 202). While treating with St. Francis Hospital, Plaintiff also treated with Brandywine Counseling, Inc., primarily for her substance addiction. However, in April 1997, Plaintiff was assessed by Dr. Patricia Lifrak who diagnosed Plaintiff with polysubstance dependence, obsessive compulsive disorder and major depression, recurrent.

Thereafter, Plaintiff returned to treatment at NCCMH. At an April 1997 visit with Dr. Bauchwitz at NCCMH, Plaintiff reported that she was doing well, although she still had problems continuously checking things. (Tr. 284). In a subsequent screening which evaluated the percentage of time Plaintiff's illness affected her daily functioning, the treating doctor found that Plaintiff's condition was moderate 20% of the time, severe 20% of the time, but minimal 60% of the time. (Tr. 262).

In May, Plaintiff was evaluated by Dr. Ernesto Cuba. Dr. Cuba diagnosed Plaintiff with obsessive compulsive disorder, anxiety, and obsessive thinking. (Tr. 242-245). Dr. Cuba noted that Plaintiff no longer had death wishes or delusions. He found her cognitive status to be alert and oriented with adequate concentration. He also found that Plaintiff's common sense, impulse control, intellectual insight and emotional insight were all "good." (Tr. 243). However, Dr. Cuba assessed Plaintiff

with a GAF of 60.

In May 1997, Dr. Cuba completed a medical certificate for the Division of Social Services, excusing Plaintiff from working for a one month period. In June, Dr. Alatur completed a second form excusing Plaintiff from work for a six to twelve month period.

In July 1997, Plaintiff reported obsessive compulsive behavior again; however, her social worker found no evidence supporting Plaintiff's complaint during the session. In addition, the counselor noted that Plaintiff was uptight and anxious because she was having problems receiving her benefits. (Tr. 272). Treatment notes for August and October 1997 indicate that Plaintiff related well and was clear, but still had a depressed mood. (Tr. 269).

In November 1997, Dr. Bauchwitz completed a Mental Impairment Questionnaire on Plaintiff. Dr. Bauchwitz diagnosed Plaintiff with major depression, recurrent, obsessive compulsive disorder and polysubstance dependence in remission. Dr. Bauchwitz assessed Plaintiff as having a GAF score of 60, and opined that Plaintiff had moderate restrictions of daily living, moderate difficulties in maintaining social functions, "often" deficiencies of concentration, persistence or pace resulting in failure to complete tasks in a timely manner and repeated episodes of deterioration or decompensation in a work or work-like setting. (Tr. 385). In addition, Dr. Bauchwitz indicated

that Plaintiff had poor ability to deal with work stress, to function independently, to maintain concentration, to understand, remember and carry out complex job instruction, to relate predictability in social situations and to demonstrate reliability. However, Dr. Bauchwitz also opined that Plaintiff had fair ability to follow rules, relate with co-workers, deal with the public, use judgment, interact with supervisors, understand, remember and carry out detailed, but not complex job instructions and good ability to understand, remember and carry out simple job instructions, maintain personal appearance and behave in an emotionally stable manner. Other than these assessments, Dr. Bauchwitz noted no limitations on Plaintiff and did not provide any medical evidence to support any limitations on Plaintiff.

In July 1999, Plaintiff, through her attorney, supplemented the record before the Appeals Council with an additional psychological evaluation performed on Plaintiff by Dr. Frederick W. Kurz in May 1999. Dr. Kurz diagnosed Plaintiff with major depressive disorder recurrent and severe, generalized anxiety disorder, obsessive compulsive disorder, polysubstance abuse in early remission and borderline intelligence. (Tr. 399).

B. The A.L.J.'s Decision

In his Opinion dated January 28, 1998, the A.L.J. concluded that, based on the medical evidence, Plaintiff had hypertension, depression with anxiety, and obsessive compulsive traits which

are severe impairments, but which did not meet or equal the criteria for the impairments listed in Appendix 1, Subpart P, Regulations No. 4. The A.L.J. further concluded that Plaintiff's drug abuse was in remission and there was no objective evidence to corroborate her alleged carpal tunnel syndrome or dust allergy. Assessing Plaintiff's credibility, the A.L.J. concluded that her testimony about her impairments was not entirely credible given her admitted daily activities and other record evidence. In assessing Plaintiff's residual functional capacity ("RFC"), the A.L.J. concluded that Plaintiff had an RFC for the full range of light work, reduced by mild limitations on sustaining concentration and attention due to mild to moderate pain and depression. The A.L.J. also noted that Plaintiff could perform simple and unskilled tasks, limited to one or two step instructions due to mild to moderate pain and depression. Based on Plaintiff's age as a "younger individual" under the Social Security Regulations, her education, and her RFC, the A.L.J. concluded that the Regulations would direct a conclusion of "not disabled." Based on the testimony of the vocational expert, the A.L.J. further concluded that Plaintiff could perform such jobs as interviewer/survey worker and mail clerk, and that a significant number of such jobs were available in the national economy. Accordingly, the A.L.J. concluded that Plaintiff was not disabled and not eligible for SSI benefits.

STANDARD OF REVIEW

Pursuant to 42 U.S.C. § 405(g), findings of fact made by the Commissioner of Social Security are conclusive, if they are supported by substantial evidence. Accordingly, judicial review of the Commissioner's decision is limited to determining whether "substantial evidence" supports the decision. Monsour Medical Ctr. v. Heckler, 806 F.2d 1185, 1190 (3d Cir. 1986). In making this determination, a reviewing court may not undertake a de novo review of the Commissioner's decision and may not re-weigh the evidence of record. Id. In other words, even if the reviewing court would have decided the case differently, the Commissioner's decision must be affirmed if it is supported by substantial evidence. Id. at 1190-91.

The term "substantial evidence" is defined as less than a preponderance of the evidence, but more than a mere scintilla of evidence. As the United States Supreme Court has noted substantial evidence "does not mean a large or significant amount of evidence, but rather such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." Pierce v. Underwood, 487 U.S. 552, 555 (1988).

With regard to the Supreme Court's definition of "substantial evidence," the Court of Appeals for the Third Circuit has further instructed, "A single piece of evidence will not satisfy the substantiality test if the [Commissioner] ignores

or fails to resolve a conflict created by countervailing evidence. Nor is evidence substantial if it is overwhelmed by other evidence . . . or if it really constitutes not evidence but mere conclusion." Kent v. Schweiker, 710 F.2d 110, 114 (3d Cir. 1983). Thus, the substantial evidence standard embraces a qualitative review of the evidence, and not merely a quantitative approach. Id.; Smith v. Califano, 637 F.2d 968, 970 (3d Cir. 1981).

DISCUSSION

In her Motion For Summary Judgment, Plaintiff contends that the decision of the A.L.J. denying Plaintiff SSI is not supported by substantial record evidence. Specifically, Plaintiff contends that (1) the A.L.J.'s conclusion that Plaintiff did not have an impairment or combination of impairments that met or equaled one listed in the Social Security Regulations is not supported by substantial evidence in the record and the A.L.J. failed to explain his findings with respect to the listing found at Section 12.06 for Anxiety Related Disorders; (2) the A.L.J.'s assessment of Plaintiff's credibility is not supported by substantial evidence; and (3) the A.L.J.'s conclusion concerning Plaintiff's RFC is not supported by substantial evidence, because the A.L.J. failed to give sufficient weight to the opinion of Plaintiff's treating physicians and ignored the functional limitations imposed by Plaintiff's obsessive compulsive disorder. The Court

will consider each of Plaintiff's arguments in turn.

I. Whether The A.L.J.'s Conclusion That Plaintiff Did Not Have An Impairment Or Combination Of Impairments That Met Or Equaled One Listed In The Regulations Was Supported By Substantial Evidence

Pursuant to Section 1382c of the Act, an individual is eligible for SSI if he or she is "disabled," meaning he or she is "unable 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 twelve months . . ." 42 U.S.C. § 1382c(a)(3)(A). In analyzing a disability claim, the Social Security Regulations provide for a five step sequential analysis. Specifically, the Commissioner must determine (1) whether the claimant is currently performing substantial gainful activity; (2) whether the claimant has a severe impairment; (3) whether the impairment meets or equals one listed by the Commissioner; (4) whether the claimant can perform his or her past work; and (5) whether the claimant is cable of performing any work in the national economy. 20 C.F.R. § 416.920(a)-(f). The burden of proving "disability" within the meaning of the Act rests on the claimant. Gilliland v. Heckler, 786 F.2d 178, 182 (3d Cir. 1986).

In this case, Plaintiff challenges the A.L.J.'s determination at the third step of the sequential analysis. Specifically, Plaintiff contends that the A.L.J. failed to

properly analyze her symptoms in the context of the listing found at Section 12.06 which pertains to anxiety disorders.

To qualify for benefits at step three of the sequential analysis, an individual's symptoms, signs and laboratory findings must match or surpass the criteria listed in the Listing of Impairments. 20 C.F.R. § 404.1520(d); Woody v. Secretary of Health and Human Servs., 859 F.2d 1156, 1159 (3d Cir. 1988). "For a claimant to show that his [or her] impairment matches a listing, it must meet all of the specified medical criteria. An impairment that manifest only some of those criteria, no matter how severely, does not qualify." Sullivan v. Zebley, 493 U.S. 521, 529 (1990) (emphasis in original). Similarly, for a claimant to show "that his [or her] unlisted impairment, or combination of impairments, is equivalent to a listed impairment, the claimant must present medical findings equal in severity to all the criteria for the one most similar listed impairment." Id. at 531 (emphasis in original).

In this case, the A.L.J. first evaluated Plaintiff's condition in light of the criteria in the Section 12.04 listing for Affective Disorders. Plaintiff does not challenge the A.L.J.'s analysis that Plaintiff's condition did not meet or equal the listing at Section 12.04, but rather, Plaintiff contends that the A.L.J. failed to perform a satisfactory analysis of whether Plaintiff's condition met the listing at Section 12.06 for Anxiety Related Disorders. Specifically,

Plaintiff faults the A.L.J. for incorporating by reference his analysis under the Section 12.04 listing into his discussion of the Section 12.06 listing.

After reviewing the record as it relates to this issue, the Court concludes that the A.L.J.'s decision under step three of the sequential analysis was supported by substantial evidence, and that the A.L.J.'s analysis under the Section 12.06 listing was not deficient. Addressing whether Plaintiff's condition satisfied the criteria listed in Section 12.06, the A.L.J. noted that Plaintiff had obsessive compulsive symptoms, but found that the symptoms were not severe enough to satisfy the requirement in Section 12.06 that the obsession or compulsions be "a source of marked distress." (Tr. 19). In addition, the A.L.J. incorporated by reference his findings about Plaintiff's functional ability, because the Section 12.06 and Section 12.04 listing describe the same functional limitations. Both listings require a severity of (1) "marked" restriction of activities of daily living, (2) "marked" difficulties in maintaining social functioning, (3) deficiencies of concentration, persistence or pace resulting in frequent failure to complete tasks in a timely manner; or (4) repeated episodes of deterioration or decompensation. In the context of Section 12.04, the A.L.J. concluded that Plaintiff's symptoms had "only moderately restricted her activities of daily living and caused only slight difficulties in maintaining social functioning. She seldom has

deficiencies of concentration, and has never had episodes of deterioration or decompensation in a work setting . . .” (Tr. 19). That the A.L.J. referred to these findings shows that he considered them in the context of the Section 12.06 listing and reached the same conclusions as to each of them. Given the similarity between the criteria for Section 12.04 and Section 12.06, the Court finds no error in the manner in which the A.L.J. performed his analysis.

Further, given the evidence of record, the Court cannot conclude that the A.L.J.’s decision at step three was unsupported by substantial evidence. Although Plaintiff’s symptoms were severe, the record shows that with medication, Plaintiff could control her obsessive compulsive condition. Indeed, the record indicates that Plaintiff frequently reported that her medication reduced her symptoms to a manageable level. Further, the record also contains evidence that Plaintiff was psychiatrically stable with medication insofar as her obsessive compulsive disorder was concerned. (Tr. 133). Moreover, Plaintiff was evaluated by a number of physicians who assessed her with a GAF score in the 55 to 60 range which indicates moderate symptoms and moderate difficulty in social and occupational functioning. Thus, there is record support for the A.L.J.’s conclusion that Plaintiff’s condition did not meet the requirements of “marked” restriction on daily activities and “marked” difficulty in maintaining social functioning. In addition, a number of Plaintiff’s physicians,

including Dr. Alatur and Dr. Cuba found that Plaintiff had adequate concentration, and as the A.L.J. observed, the record is void of evidence pertaining to episodes of deterioration or decompensation.² (Tr. 119, 243). Thus, the record evidence is consistent with and supports the A.L.J.'s conclusion that Plaintiff's impairments only moderately restricted her daily living activities and social functioning and did not meet the criteria listed in Section 12.06. Accordingly, the Court cannot conclude that the A.L.J.'s decision is unsupported by substantial evidence, and therefore, the Court will deny Plaintiff's Motion For Summary Judgment As it relates to the A.L.J.'s analysis and conclusions at step three.

II. Whether The A.L.J.'s Credibility Analysis Is Supported By Substantial Evidence

Plaintiff next contends that the A.L.J. erred in assessing Plaintiff's credibility. Specifically, Plaintiff contends that the A.L.J.'s credibility determination regarding Plaintiff's complaints of pain and difficulty concentrating was not supported by substantial evidence, because the A.L.J. failed to consider factors other than Plaintiff's daily activities, including the

² Dr. Bauchwitz opined that Plaintiff had "repeated" episodes of decompensation; however, as discussed in Part III of this Memorandum Opinion, Dr. Bauchwitz did not support his opinion with any objective medical evidence, and therefore, Dr. Bauchwitz's opinion is "weak evidence at best." Mason v. Shalala, 994 F.2d 1058, 1065 (3d Cir. 1993) (recognizing that unsupported doctors' opinions are suspect).

effects of Plaintiff's medication and her extensive treatment history.

A plaintiff's statements about his or her impairment are insufficient, standing alone, to establish that the Plaintiff is disabled. 20 C.F.R. § 404.1529(a), § 416.929(a). Rather, there must be medical signs and laboratory findings which show that the plaintiff has an impairment which could reasonably be expected to produce the pain or other symptoms alleged by the plaintiff. If the medical signs or laboratory findings show that the plaintiff has a medically determinable impairment that could reasonably be expected to produce his or her symptoms, then the A.L.J. must evaluate the intensity and persistence of the plaintiff's symptoms in order to determine whether they limit his or her capacity to work. 20 C.F.R. § 404.1529(c)(1), § 416.929(c)(1). In evaluating a plaintiff's symptoms, including complaints of pain, the A.L.J. must consider such factors as: (1) the plaintiff's daily activities; (2) the location, duration, frequency and intensity of the plaintiff's pain or other symptoms; (3) precipitating and aggravating factors; (4) the type, dosage, effectiveness and side effects of any medication the plaintiff takes to alleviate his or her symptoms; (5) treatment other than medication the plaintiff is receiving or has received; (6) any measures the plaintiff uses or has used to relieve pain; and (7) other factors concerning the plaintiff's functional limitations and restrictions due to pain or other

symptoms. 20 C.F.R. § 416.929(c)(3).

Generally, the A.L.J.'s assessment of a plaintiff's credibility is afforded great deference, because the A.L.J. is in the best position to evaluate the demeanor and attitude of the plaintiff. See e.g. Griffiths v. Callahan, 138 F.3d 1150, 1152 (8th Cir. 1998); Wilson v. Apfel, 1999 WL 992723, *3 (E.D. Pa. Oct. 29, 1999). However, the A.L.J. must explain the reasons for his or her credibility determinations. Schonewolf v. Callahan, 972 F. Supp. 277, 286 (D.N.J. 1997) (citations omitted).

After reviewing the record as it relates to the A.L.J.'s determination of Plaintiff's credibility, the Court concludes that the A.L.J.'s finding is supported by substantial evidence. With respect to Plaintiff's allegations of pain due to carpal tunnel syndrome and an allergy to dust, the A.L.J. appropriately considered the threshold question of whether there was objective medical evidence to support Plaintiff's allegations. Reviewing the record as it pertained to Plaintiff's alleged carpal tunnel syndrome, the A.L.J. noted that "Dr. M. Hernandez advised [Plaintiff] on December 18, 1996, that no reproducible signs or symptoms of carpal tunnel syndrome were detected, [and] [t]he remainder of the record is devoid of any mention of functional limitations or restrictions imposed as a result of carpal tunnel syndrome or any other condition affecting the use of the claimant's hands." (Tr. 18). With respect to Plaintiff's alleged dust allergy, the A.L.J. also noted that "the record does

not indicate the existence of a respiratory impairment which imposes more than a minimal effect on her ability to function” (Tr. 18). After reviewing the record, the Court agrees with the A.L.J.’s finding. Because there is no objective medical evidence to support Plaintiff’s allegations of pain and/or other symptoms due to carpal tunnel syndrome and dust allergy, the Court cannot conclude that the A.L.J. erred in finding that Plaintiff’s complaints lacked credibility.

As for the symptoms relating to Plaintiff’s depression and obsessive compulsive condition, the Court likewise concludes that the A.L.J.’s analysis was appropriate and supported by substantial evidence. The A.L.J. considered Plaintiff’s daily activities and her symptoms. He also considered the medications she has taken and noted that Plaintiff “advised that her medication has helped her control some of her symptoms, and denied any side effects except for nightmares.” (Tr. 20). In addition, the A.L.J. noted that Plaintiff attends counseling which has helped her. The A.L.J. also considered the objective medical evidence in the record, including Plaintiff’s GAF assessments which indicated that Plaintiff had moderate difficulty functioning, but not severe difficulty. Given the objective medical evidence and other record evidence, including Plaintiff’s testimony at the hearing, the Court cannot conclude that the A.L.J.’s credibility analysis was faulty or unsupported by substantial evidence. Accordingly, the Court will deny

Plaintiff's Motion For Summary Judgment as it pertains to the A.L.J.'s credibility determination.

III. Whether The A.L.J.'s Conclusions Concerning Plaintiff's Residual Functional Capacity Are Supported By Substantial Evidence

Plaintiff next contends that the A.L.J.'s conclusions concerning her residual function capacity ("RFC") are not supported by substantial evidence. Plaintiff does not contest the finding with respect to her exertional capabilities; however she does contest the A.L.J.'s finding with respect to the severity of her psychiatric symptoms and the functional limitations they have on her ability to work. Specifically, Plaintiff contends that the A.L.J. failed to give sufficient weight to the opinion of Plaintiff's treating physician, Dr. Bauchwitz, and failed to consider the impact of her obsessive compulsive disorder on her functional capabilities.

Pursuant to 20 C.F.R. § 416.927(d)(2), the Commissioner generally must give more weight to the opinion of a treating physician, because "these sources are likely to be the medical professionals most able to provide a detailed, longitudinal picture of your medical impairment(s) and may bring a unique perspective to the medical evidence that cannot be obtained from the objective medical findings alone or from reports of individual examinations such as consultative examinations or brief hospitalizations." However, the opinions of treating

physicians are only given substantial weight if: (1) they are supported by medically acceptable clinical and laboratory diagnostic techniques; and (2) they are not inconsistent with other substantial evidence in the record. If a treating physician's opinion is not given controlling weight, the Commissioner must consider such factors as length of treatment relationship, nature and extent of treatment relationship, supportability, consistency with record evidence, specialization of the physician and other factors the plaintiff raises, in determining how to weigh the physician's opinion. 20 C.F.R. § 416.927(d)(2)-(6).

In this case, the A.L.J. considered Dr. Bauchwitz's opinion, but concluded that it was entitled to "limited weight . . . in view of the minimal objective findings in her report, in contrast to the more detailed report of Dr. Cuba." (Tr. 23). After reviewing the record, the Court cannot conclude that the A.L.J.'s decision not to give Dr. Bauchwitz's opinion controlling weight was unsupported by substantial evidence. First, Dr. Bauchwitz was only one of several physicians who treated Plaintiff and the record does not indicate that Plaintiff had extensive visits or treatment with Dr. Bauchwitz over and beyond her treatment with any other physicians. The record indicates that Dr. Bauchwitz was informed that Plaintiff was going to apply for SSI and the following month Dr. Bauchwitz completed a mental assessment

questionnaire on Plaintiff.³ However, as the A.L.J. noted, Dr. Bauchwitz's assessment was neither detailed nor complete. (Tr. 23). Dr. Bauchwitz merely checked boxes relating to a series of questions on the form. Although the assessment required Dr. Bauchwitz to complete questions describing any limitations on Plaintiff's ability and support the assessment with medical findings, Dr. Bauchwitz did not describe any limitations or offer any medical findings to support any of his assessments. (Tr. 388-389). As the Third Circuit has recognized, the reliability of doctors' reports that are "unaccompanied by thorough written reports" is suspect, and form reports in which a physician merely checks boxes or fills in a blank are "weak evidence at best." Mason v. Shalala, 994 F.2d 1058, 1065 (3d Cir. 1993).

Accordingly, the Court cannot conclude that the A.L.J. erred in giving Dr. Bauchwitz's opinion limited weight.

To the extent that Plaintiff contends that the A.L.J. failed to consider the impact of her obsessive compulsive disorder in assessing Plaintiff's RFC, the Court likewise rejects Plaintiff's argument. The A.L.J. considered Plaintiff's obsessive compulsive disorder, but also noted that her symptoms improved with medication. In questioning the vocational expert, the A.L.J.

³ The Commissioner contends that Plaintiff only saw Dr. Bauchwitz once in September; however, the Commissioner's statement appears to be inaccurate as the record contains treatment notes from Dr. Bauchwitz for an April 25, 1997 visit. (Tr. 284). Thus, it appears that Plaintiff saw Dr. Bauchwitz at least one time prior to applying for SSI benefits.

expressly posed a hypothetical question which included her obsessive compulsive complaints, and the vocational expert concluded that Plaintiff could still perform the jobs of interviewer and mail clerk. Accordingly, the Court cannot conclude that the A.L.J. failed to consider Plaintiff's obsessive compulsive disorder in his findings.

As far as the A.L.J.'s RFC, which included the restriction on Plaintiff's ability to perform "tasks requiring sustained concentration or attention on more than routine, one-two step instructions due to mild to moderate pain and depression," the Court cannot conclude that the A.L.J.'s opinion was unsupported by substantial evidence. For example, in assessing Plaintiff, Dr. Cuba noted that Plaintiff's cognitive status was alert, with intact attention, adequate concentration, average intelligence and normal productivity. (Tr. 243-244). Dr. Cuba's opinions are consistent with the findings of Dr. Alatur who also noted that Plaintiff was alert, oriented, concentrated adequately, and had an average level of intelligence. (Tr. 119). In making his determinations, the A.L.J. weighed these opinions, as well as the other opinions and evidence in the record. (Tr. 23). Further, the A.L.J. considered the testimony of the vocational expert, who found that Plaintiff could still perform a significant number of jobs in the national economy, specifically the jobs of interviewer and mail clerk, with mild to moderate mental deficiencies, including "often" deficiencies in concentration.

(Tr. 58). The A.L.J.'s hypothetical included the limitations on Plaintiff which were supported by the record, and therefore, the A.L.J. appropriately relied on the vocational expert's testimony that a plaintiff with these limitations could still perform a substantial number of jobs in the national economy to support his conclusions regarding Plaintiff's capabilities and disabilities. Chrupcala v. Heckler, 829 F.2d 1269, 1276 (3d Cir. 1987).

Moreover, even accepting Dr. Bauchwitz limitations on Plaintiff, the vocational expert still concluded that a plaintiff with those limitations could perform the jobs of interviewer and mail clerk. (Tr. 57). Accordingly, the Court cannot conclude that the A.L.J.'s analysis was flawed or unsupported by substantial record evidence, and therefore, the Court will deny Plaintiff's Motion For Summary Judgment.

CONCLUSION

For the reasons discussed, Defendant's Motion For Summary Judgment will be granted, Plaintiff's Motion For Summary Judgment will be denied and the decision of the Commissioner dated January 28, 1998 will be affirmed.

An appropriate Order will be entered.