

NONPRECEDENTIAL DISPOSITION
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United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

Argued December 14, 2022
Decided January 23, 2023

Before

DIANE S. SYKES, *Chief Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

No. 22-1777

CAROL A. LESKOWYAK,
Plaintiff-Appellant,

v.

KILOLO KIJAKAZI, Acting
Commissioner of Social Security,
Defendant-Appellee.

Appeal from the United States District
Court for the Northern District of Indiana,
Fort Wayne Division.

No. 1:21-cv-210

William C. Lee,
Judge.

ORDER

Carol Leskowyak appeals the denial of her application for disability insurance benefits under the Social Security Act. Leskowyak suffers from degenerative disc disease, which causes her back pain, as well as other medical impairments. An administrative law judge held a hearing, found that Leskowyak could perform light work, and concluded that she is not disabled. Because the record contains substantial evidence supporting this determination, we affirm.

I

A

In late 2011 Leskowsyk underwent a lumbar discectomy to alleviate her back pain. She then stopped working for two months but later returned to her job as a hospital-admitting clerk with accommodations for limited walking and standing. Leskowsyk periodically consulted a chiropractor, a physical therapist, and an orthopedic surgeon—Dr. Robert Shugart. At the last appointment with Dr. Shugart, he authorized Leskowsyk to return to work with restrictions on lifting, pulling, or pushing over five pounds. At that same time Dr. Shugart observed evidence of postoperative changes and scar tissue, but he recommended conservative treatment and allowed Leskowsyk to continue working. Dr. Shugart also suggested injections for pain management, which Leskowsyk declined.

Leskowsyk identifies early 2013—when she stopped working—as the onset date of her disability. But she did not continue with treatment for her back pain until 2016, when she complained of chronic lower back pain to her primary doctor. Two years later she saw another orthopedic specialist, Dr. John Williams, for both knee pain and chronic, severe lower back pain. Leskowsyk said her lower back pain had persisted since 2011. Dr. Williams recorded that Leskowsyk was in “obvious discomfort” and had a “markedly positive” left straight-leg raise test, indicating nerve-root irritation. He diagnosed Leskowsyk as suffering from degenerative scoliosis, post-laminectomy syndrome, recurrent-lumbar stenosis, and lumbar-degenerative scoliosis.

In late 2018 Leskowsyk had a second lumbar surgery. The results were initially promising, but early the next year her pain returned and spiked. Following this second surgery, however, Dr. Williams noted that Leskowsyk’s bilateral straight-leg tests were no longer positive, which indicated improvement and diminished symptoms. Dr. Williams recommended that Leskowsyk undergo physical therapy and receive medication for nerve pain.

B

Leskowsyk filed for disability benefits in 2019. The Commissioner denied the application, and Leskowsyk appealed. In mid-2020 an ALJ held an evidentiary hearing and heard testimony from Leskowsyk and a vocational expert. Leskowsyk testified about her work history as well as her condition and activities between 2013 and 2017, her date last insured.

Applying the requisite five-step analysis, see 20 C.F.R. § 404.1520(a)(4), the ALJ determined that Leskowyak was not disabled from her alleged onset date through her date last insured. The ALJ found that she did not have a severe impairment or combination of severe impairments that would prevent her from working consecutively for 12 months. Further, the ALJ observed that Leskowyak's only impairment before her date last insured was degenerative disc disease, and even if that impairment was severe, it did not prevent her from performing light work—including her own past jobs.

The district court upheld the ALJ's determination.

II

In reviewing Leskowyak's appeal, we will reverse only if the ALJ based the denial of benefits on incorrect legal standards or less than substantial evidence. See *Clifford v. Apfel*, 227 F.3d 863, 869 (7th Cir. 2000) (citing 42 U.S.C. § 405(g)). Substantial evidence is not a demanding requirement. It means "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Biestek v. Berryhill*, 139 S. Ct. 1148, 1154 (2019) (quoting *Consol. Edison Co. v. NLRB*, 305 U.S. 197, 229 (1938)). To obtain benefits, a claimant must produce sufficient evidence to show that she was disabled before her date last insured. See 42 U.S.C. § 416(i); *Eichstadt v. Astrue*, 534 F.3d 663, 665 (7th Cir. 2008). Evidence generated after the claimant's date last insured may be relevant, but only to the extent it reflects her condition and ability to work before her date last insured. See *Halvorsen v. Heckler*, 743 F.2d 1221, 1225 (7th Cir. 1984).

Leskowyak contends that the ALJ did not properly consider evidence of her disability arising after her date last insured. She states that evidence from her 2018 spinal surgery shows a "downhill trajectory" from her 2011 lumbar surgery through her second procedure. She further alleges that the ALJ did not recognize her 2018 diagnosis of post-laminectomy syndrome and instead relied too heavily on what she characterizes as a few isolated reports, or "moments of pain relief."

Substantial evidence supports the ALJ's conclusion that Leskowyak did not show that her back condition—which had worsened by 2018—was disabling during the relevant period before December 31, 2017. First, the ALJ discussed treatment notes following her 2011 lumbar discectomy that reflected significant improvement from the procedure. Among these notes was Dr. Shugart's report from a few months after the surgery, in which he wrote that Leskowyak was "75% improved." Second, the ALJ noted the lack of medical records between 2013 and 2016 that might have shown Leskowyak's back condition was disabling during that time.

Even more, the ALJ's analysis of Leskowsyak's 2018 lumbar MRI—the one showing mild degenerative disc disease—reflects that he did consider medical records and images from 2018 onward. The ALJ specifically stated that he considered what effect the back impairment may have had on Leskowsyak during the relevant period because she “had reported back pain prior to the date last insured.” And the ALJ relied on Dr. Williams's treatment notes from May 2019—about six months after her second back surgery—that not only recorded her complaints of continued back pain but also reported normal muscle strength, negative bilateral straight-leg raises (indicating diminished pain), and no acute distress.

Leskowsyak bears an affirmative burden to establish that her 2011 treatment relates to her later back pain enough that it shows she was disabled from 2013 to 2017. See 20 C.F.R. § 404.1512(a); *Karr v. Saul*, 989 F.3d 508, 513 (7th Cir. 2021). Leskowsyak's counsel observed on appeal both that the 2018 MRI showed degenerative changes at or near the same place in her spine as were addressed in her 2011 surgery and that the diagnosis of *post-laminectomy syndrome* implies continued difficulties from that surgery. We recognize that there is a certain intuitive attraction to counsel's reasoning. But that is not enough. Leskowsyak (and her counsel) cannot appeal to common sense alone; she needed to support her arguments with medical evidence that was put into the record before the ALJ. That never happened.

Our review of the administrative record shows that Leskowsyak did not produce relevant evidence to support the connection between her earlier surgery, her period of disability, and her later back surgery. We therefore AFFIRM.