NONPRECEDENTIAL DISPOSITION
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United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Argued September 7, 2023
Decided June 1, 2026

Before

MICHAEL B. BRENNAN, *Chief Judge*

AMY J. ST. EVE, *Circuit Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

No. 21-1970

JAMIE I. COSENZA,
Plaintiff-Appellant,

v.

FRANK BISIGNANO,[1]
Defendant-Appellee.

Appeal from the United States District Court for the Central District of Illinois.

No. 1:19-cv-01147

James E. Shadid,
Judge.

O R D E R

Jamie Cosenza first sought disability benefits for her son James Freid when he was 13 years old. The Social Security Administration denied her claim, and Cosenza challenged that denial at three separate hearings over the course of seven years. After the third hearing, an administrative law judge (ALJ) determined that Freid, who by

[1] Pursuant to Federal Rule of Appellate Procedure 43(c), Commissioner of Social Security Frank Bisignano is automatically substituted for former Commissioner Martin J. O'Malley as Defendant-Appellee.

then was 20 years old, had limitations but was not disabled either as a child or as an adult according to the Social Security Act.

Cosenza pursued relief administratively and in district court, without success, before appealing to our court. Given that Freid is now an adult, we asked the parties for additional briefing on (1) whether Cosenza or Freid is the real party in interest, and (2) if Freid is the real party in interest, whether we should substitute him as the appellant with or without a guardian ad litem.[2] The parties complied, and Cosenza also filed a motion to join Freid as a party to this case.

Having reviewed the parties' positions, we conclude that Cosenza and Freid are both real parties in interest, and we join Freid to this appeal as a second appellant. On the merits, we conclude that the ALJ's decision is supported by substantial evidence. We therefore affirm the district court's judgment.

I.

Two decisions issued below—the magistrate judge's report & recommendation on the parties' cross-motions for summary judgment and the district court's order adopting that report & recommendation—ably describe this case's voluminous record. Therefore, we recount only the facts necessary to resolve the sole merits question before us: whether the ALJ's decision was supported by substantial evidence. *See Rabdeau v. Bisignano*, 155 F.4th 908, 912 (7th Cir. 2025).

Cosenza first filed an application for supplemental social security income on Freid's behalf in 2011; Freid was 12. She alleged then—and still maintains—that Freid has been disabled since birth. According to Cosenza, Freid suffers from "a debilitating learning disability" and has "demonstrated consistent behavioral issues and an inability to interact with others without becoming overwhelmed, disruptive, and occasionally even aggressive." These impairments, Cosenza explains, prevent Freid from pursuing higher education or getting a job now that he is an adult.

After her application was denied initially and upon reconsideration, Cosenza requested a hearing before an ALJ. In 2012, the ALJ determined that Freid, then a minor, was not disabled. Cosenza appealed to the district court; the court remanded. On remand, a new ALJ determined once more that Freid was not disabled. That decision,

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[2] In ordering supplemental briefing on these issues, we sua sponte appointed counsel for Cosenza. We thank Gibson, Dunn & Crutcher LLP and its current and former lawyers—Addison Bennett, Katherine Moran Meeks, Emma Eisendrath, Mary Jessica Kirsch Munoz, and Lucas C. Townsend—for their excellent advocacy on Cosenza's behalf.

issued in 2016, was based in part on Cosenza's refusal to assist in developing the record; the ALJ stated she could not determine the severity and functional impact of Freid's impairments from 2012 through 2016 because Cosenza would not authorize the release of new medical or school records to bring Freid's file up to date. Cosenza appealed the new denial of benefits to the Appeals Council of the Social Security Administration (SSA), which remanded, holding that "there is no authority for an ALJ to not make a finding on the severity of an impairment because the claimant refuses to cooperate."

This appeal concerns the ALJ's 2018 decision, issued on remand from the Council, after a hearing. By that point, Freid was an adult. The ALJ therefore needed to make two determinations: whether Freid was "disabled" within the meaning of Section 1614(a)(3) of the Social Security Act both before and after he was 18 years old. The SSA's process for determining whether a minor or an adult is "disabled" is largely the same, except that there are two additional steps—steps four and five—to determine an adult applicant's ability to work. *See* 20 C.F.R. §§ 404.1520(a), 416.924.

As to whether Freid was disabled as a minor, at step one, the ALJ determined that Freid had never engaged in substantial gainful activity. Next, at step two, she concluded that Freid suffered from two severe medically determinable impairments as a minor: a learning disorder and vitamin deficiencies. Cosenza had argued that Freid was additionally disabled due to several other conditions, including Asperger's disorder, autism, and sensory modulation disorder, but the ALJ found these additional diagnoses were not supported by the record evidence. Finally, at step three, the ALJ concluded that before turning 18, Freid did not have an impairment or combination of impairments that met, medically equaled, or functionally equaled any of the listed impairments in 20 C.F.R. Part 404, Subpart P, Appendix 1. In doing so, the ALJ considered whether Freid's severe medically determinable impairments met either the requirements of the listing in place when Cosenza filed her application or the listing in effect in 2018. The ALJ found his impairments did not meet the requirements of either. So, the ALJ determined Freid was not disabled as a minor, and she denied Cosenza's application for social security benefits for the period before Freid turned 18.

As to whether Freid was disabled as an adult, at step one, the ALJ repeated that Freid had never engaged in substantial gainful activity. At step two, she reiterated that Freid suffered from the same two severe medically determinable impairments as an adult that he suffered from as a child, a learning disorder and vitamin deficiencies; that these impairments had not decreased in severity upon his turning 18; and that he had not developed any new impairments as an adult. And at step three, the ALJ again determined that neither of Freid's impairments—either on its own or in combination

with the other—was "severe enough to prevent [him] from doing any gainful activity." 20 C.F.R. § 404.1525(a). She specifically considered whether Freid's impairments "met or medically equal[ed]" the SSA's listing for neurodevelopmental disorders or depressive, bipolar and related disorders, concluding his symptoms did not meet the requirements for either listing. *Id.* § 404.1520(a)(4)(iii).

At step four, the ALJ determined Freid's residual functional capacity. Considering Freid's medical and school records, plus the testimony of a vocational expert at the 2018 hearing, the ALJ found that he "had the residual functional capacity to perform a full range of work at all exertional levels," albeit with "nonexertional limitations." Those limitations included his working in "a low stress work environment, meaning no more than occasional decision-making or changes in work setting," having "no hourly production quotas [and] interaction with the general public," and being free from "concentrated exposure to excessive noise." "Overall," she concluded, Freid "failed to establish that he would be unable to perform a limited range of essentially unskilled socially undemanding work if so motivated."

Lastly, at step five, the ALJ concluded that there were a significant number of suitable jobs in the national economy that Freid could perform, including packer, order picker, hand polisher, stamper, or document preparation clerk. Therefore, ultimately, the ALJ concluded that Freid "ha[d] not been under a disability, as defined in the Social Security Act, [from] the day [he] attained age 18, through the date of [her] decision." So she denied him adult supplemental social security income, too.

Once again, Cosenza appealed the ALJ's decision. But the Appeals Council denied her petition. She then sought review in district court, which granted summary judgment in the Commissioner's favor. This appeal followed.

II.

This case presents two issues for us to resolve: whether we have jurisdiction to hear Cosenza's appeal and whether substantial evidence supports the ALJ's decision to deny Cosenza's claim.

A. Jurisdiction

As a threshold matter, we consider our jurisdiction to decide this appeal. The Commissioner asserts that we lack subject matter jurisdiction over this case, reasoning that because Freid is now an adult, Cosenza no longer has standing to sue on his behalf. Cosenza maintains jurisdiction is secure because, among other things, Freid himself has standing to sue. To resolve this issue, we asked the parties for additional briefing on whether Freid has standing and qualifies as a real party in interest and, if so, whether

he should be joined or substituted into the action. *See Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 264 & n.9 (1977). Cosenza also filed a motion to join Freid as a plaintiff-appellant.

Having reviewed the parties' supplemental briefs and their papers filed in conjunction with Cosenza's motion, we note their consensus that Freid has standing, qualifies as a real party in interest, and is a proper plaintiff-appellee in this case. We agree. Freid has standing because he alleges the Commissioner denied him benefits to which he was entitled, and a favorable decision by this court could redress that injury. *See, e.g.*, *LJM Partners, Ltd. v. Barclays Cap., Inc.*, 165 F.4th 552, 565 (7th Cir. 2026). He is a real party in interest because he is the person who "possesses the interest to be enforced through litigation" and is "entitled to recover." *RK Co. v. See*, 622 F.3d 846, 850 (7th Cir. 2010). We see no issue with making him a party to this action.

As to whether he should be joined or substituted, we hold that joinder is both permitted under Rules 17 and 21 of the Federal Rules of Civil Procedure and appropriate in this case. Rule 17 states that, subject to certain exceptions, "[a]n action must be prosecuted in the name of the real party in interest." Fed. R. Civ. P. 17(a)(1). Nonetheless, the Rule prohibits courts from dismissing an action "for failure to prosecute in the name of the real party in interest until … a reasonable time has been allowed for the real party in interest to … join … the action." *Id.* at 17(a)(3). And Rule 21 allows a court to, "at any time, add … a party." Fed. R. Civ. P. 21. The plain text of these Rules, and the cases interpreting these Rules, counsel in favor of joinder. *Cf. LJM Partners*, 165 F.4th at 569–70 (Rule 17(a)(3)); *Bavido v. Apfel*, 215 F.3d 743, 747 n.3 (7th Cir. 2000) (Rule 21). The motion to join Freid as a plaintiff-appellant is granted. And with Freid joined as a party, we conclude that we have subject matter jurisdiction over this appeal.

That leaves us one issue to resolve before reaching the merits: Should Cosenza remain a party to this case? The Commissioner did not raise the issue of whether Cosenza is a proper party at the district court. He has, therefore, waived argument as to whether she is a real party in interest. *See, e.g.*, *RK Co.*, 622 F.3d at 850–52. Moreover, because we have granted the motion to join Freid as a party, we need not decide Cosenza's standing to sue. *See, e.g.*, *Arlington Height*s, 429 U.S. at 264 n.9; *Town of Chester v. Laroe Est., Inc.*, 581 U.S. 433, 439 (2017); *Horne v. Flores*, 557 U.S. 433, 446–47 (2009). Given these circumstances, we will not disturb Cosenza's role as party to this suit and we decline as unnecessary Cosenza's request in the alternative to be appointed Freid's guardian ad litem.

B. Merits

"We review de novo the district court's affirmance of the ALJ's decision and review directly the decision of the ALJ." *Jarnutowski v. Kijakazi*, 48 F.4th 769, 773 (7th Cir. 2022) (quoting *Butler v. Kijakazi*, 4 F.4th 498, 501 (7th Cir. 2021)). Our review of the ALJ's determination is "very deferential." *Id.* (quoting *Elder v. Astrue*, 529 F.3d 408, 413 (7th Cir. 2008)). "We will reverse an ALJ's decision only if it is the result of an error of law or it is not supported by substantial evidence, which is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Id.* (citation modified). It is not our duty to reweigh evidence, resolve debatable conflicts, determine credibility of evidence, or substitute our judgment for the ALJ's. *Burmester v. Berryhill*, 920 F.3d 507, 510 (7th Cir. 2019).

Cosenza and Freid advance two arguments, which they consider intertwined, in challenging the decision that Freid was not disabled as a minor or as an adult. First, they argue that the ALJ failed to consider relevant testimony from the vocational expert, which supported a finding that no jobs would be available to a person with Freid's limitations. Second, they argue that the ALJ's assessment that Freid's impairments did not medically or functionally equal the SSA's listing is not supported by substantial evidence. We discuss each argument in turn.

1. The vocational expert's testimony

Cosenza and Freid claim the ALJ ignored the vocational expert's conclusion that Freid's impairments prevented him from finding employment. At the 2018 hearing, the ALJ questioned the vocational expert about the job prospects available to a person with certain limitations. These limitations were: (1) a claimant who became distracted and lost 15% productivity above normal work expectations; (2) a claimant who routinely missed two days of work every month; and (3) a claimant who became frustrated or acted inappropriately at least twice a month. The vocational expert responded that any one of these limitations would render a hypothetical claimant unable to find gainful employment. Cosenza and Freid characterize this colloquy as the expert effectively testifying that Freid's limitations left him unable to work, and they challenge the ALJ's failure to reference this testimony in her decision.

Cosenza and Freid's argument fails because, in her residual function determination, the ALJ did not need to account for limitations Freid did not have. The ALJ asked the vocational expert a series of hypothetical questions, many of which pertained to a person who shared Freid's actual, record-supported limitations. But some

of her hypothetical questions conceptualized a claimant more limited than Freid. Ultimately, based on the record, the ALJ determined Freid had eight functional limitations on his ability to work. The three hypothetical limitations Cosenza and Freid take issue with the ALJ omitting were not included in the eight limitations supported by the record. Because the ALJ's assessment—and her hypothetical questions—incorporated all of Freid's limitations supported by the record, she did not err by not incorporating the three irrelevant limitations. *See Deborah M. v. Saul*, 994 F.3d 785, 791 (7th Cir. 2021); *cf. Moy v. Bisignano*, 142 F.4th 546, 553 (7th Cir. 2025) (finding that ALJ erred by not incorporating all limitations supported by the record evidence).

2. Impairments

Cosenza and Freid also argue that the ALJ erred in determining his impairments did not medically or functionally equal a listing. They rely primarily on our decision in *Hopgood ex rel. L.G. v. Astrue*, where we vacated the judgment because the ALJ made conclusory statements and failed to consider evidence favorable to the minor claimant. *See* 578 F.3d 696, 699, 703 (7th Cir. 2009). Their argument is, in essence, that the ALJ erred in two ways: by failing to consider and explain how Freid's need for special education accommodations factored into her analysis, and by incorrectly concluding that Freid's behavioral issues were volitional.

This argument fails as to both parts. In *Hopgood*, the ALJ committed reversible error by failing to adequately address the claimant's severe learning and productivity limitations as evidenced by the claimant's IEP. *Id.* at 700, 703. We held that it was insufficient for the ALJ to merely "acknowledge[] [the claimant's] placement in special education" and note an improvement in the claimant's grades without also considering conflicting record evidence such as the child's special education accommodations. *See id.* at 699–700.

By contrast, the ALJ here made her impairment determinations after considering the full evidentiary record of Freid's special education accommodations. In a lengthy opinion, she discussed the special education courses' effect on Freid's academic performance, noting that Freid received extended time on his work, was permitted to use calculators on assignments, had small group placements, and was given oral and written directions, verbal testing, and a personal scribe. The ALJ also highlighted the specific academic marks that Freid received in those courses as reported by his special education teachers. She referenced Freid's own testimony about the accommodations and their positive impact on his performance. Citing to the full evidentiary record, the ALJ explained that this evidence supported her finding that Freid had a moderate

impairment in age-appropriate cognitive and communicative function. The substantial evidence standard is met.

As noted above, Cosenza and Freid urge another parallel with *Hopgood*, arguing that here, as in that case, substantial evidence did not support the ALJ's decision to attribute Freid's behavioral issues to volitional choices. *Id.* at 701–02. In *Hopgood*, we held "[t]he ALJ did not point to any medical evidence supporting his finding that [the claimant's] difficulties were of his own doing" and ignored record medical evidence that the claimant struggled because of a diagnosed condition. *Id.* at 702. Cosenza and Freid argue that the ALJ here did the same thing and that it was error for her to conclude Freid's behavior and poor school performance were volitional.

We are unpersuaded. Unlike in *Hopgood*, the record evidence in this case supports a finding that Freid's issues were volitional. For example, a 2012 IEP stated that "[Freid] can be a focused student" but "[h]is behavior makes his learning disabilities very hard to retain class lessons and skills" and "[h]e uses many excuses and will overreact to a situation to waste time." A consultative psychologist wrote in 2018 that she could not determine whether Freid had diagnosable cognitive issues or simply failed to try. And Freid himself testified at the 2018 hearing that he believed he could perform better in school if he tried harder. The ALJ discussed all this evidence before making her decision. The substantial evidence standard is satisfied.

III.

We heard argument in this case two and a half years ago. The parties have our apology for the delay in ruling. We grant Cosenza's motion to join Freid as a party to this appeal and, seeing no grounds to reverse the ALJ's decision, affirm the judgment of the district court upholding the denial of benefits.