

United States Court of Appeals
For the Eighth Circuit

No. 12-3187

Roschell H. Brooke

Plaintiff - Appellant

v.

Carolyn W. Colvin,¹ Acting Commissioner, Social Security Administration

Defendant - Appellee

Appeal from United States District Court
for the Western District of Arkansas - Harrison

Submitted: May 20, 2013

Filed: May 22, 2013

[Unpublished]

Before BYE, ARNOLD, and SHEPHERD, Circuit Judges.

PER CURIAM.

¹Carolyn W. Colvin has been appointed to serve as acting Commissioner of Social Security, and is substituted as appellee pursuant to Federal Rule of Appellate Procedure 43(c).

Roschell H. Brooke appeals the district court's² order affirming the denial of supplemental security income. Upon de novo review of the record, we conclude that the findings of the administrative law judge (ALJ) are supported by substantial evidence in the record as a whole, including new and material evidence the Appeals Council considered in declining review. See O'Donnell v. Barnhart, 318 F.3d 811, 816 (8th Cir. 2003). We find no merit to Brooke's arguments concerning the ALJ's failure to explain why she did not meet a listing, see Boettcher v. Astrue, 652 F.3d 860, 863 (8th Cir. 2011) (when ALJ fails to explain why impairment does not meet or equal one of listed impairments, it is not error if conclusion is supported by overall record); the ALJ's failure to develop the record on her back pain, see Mouser v. Astrue, 545 F.3d 634, 639 (8th Cir. 2008) (ALJ is not obligated to investigate claim not presented in application or offered at hearing as basis for disability); Ellis v. Barnhart, 392 F.3d 988, 994 (8th Cir. 2005) (reversal for failure to develop record is warranted only where such failure is unfair or prejudicial); or the ALJ's determination as to her residual functional capacity (RFC), see Perks v. Astrue, 687 F.3d 1086, 1092 (8th Cir. 2012) (medical records, physician observations, and claimant's subjective statements about capabilities may be used to support RFC; RFC must be supported by some medical evidence, but burden of persuasion to prove disability and show RFC remains on claimant). Accordingly, the judgment of the district court is affirmed.

²The Honorable James R. Marschewski, United States Magistrate Judge for the Western District of Arkansas, to whom the case was referred for final disposition by consent of the parties pursuant to 28 U.S.C. § 636(c).