

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 98-1646

Allen K. Weber,

Appellant,

v.

Kenneth S. Apfel, Commissioner
of Social Security,

Appellee.

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Appeal from the United States
District Court for the
District of South Dakota

Submitted: December 17, 1998

Filed: January 7, 1999

Before McMILLIAN, JOHN R. GIBSON and MAGILL, Circuit Judges.

McMILLIAN, Circuit Judge.

Allen K. Weber appeals from a final order entered in the United States District Court¹ for the District of South Dakota granting summary judgment in favor of the Commissioner of Social Security and affirming the decision of the administrative law judge (ALJ) denying Weber disability benefits under Title II of the Social Security Act,

¹The Honorable Richard H. Battey, Chief Judge, United States District Court for the District of South Dakota.

42 U.S.C. §§ 401-433. Weber v. Apfel, No. CIV 97-5055 (D.S.D. Jan. 20, 1998) (memorandum opinion and order) (hereinafter “slip op.”). For reversal, Weber argues that the district court erred in holding that substantial evidence in the administrative record supports the ALJ’s decision.

Jurisdiction in the district court was proper based on 42 U.S.C. § 405(g). Jurisdiction in this court is proper based on 28 U.S.C. § 1291. The notice of appeal was timely filed pursuant to Fed. R. App. P. 4(a).

We have carefully reviewed the administrative record, the district court’s well-reasoned opinion, and the parties’ arguments on appeal. Upon review, we find no merit to Weber’s specific arguments that the ALJ erred as a matter of law in failing to consider deposition testimony provided by Weber’s treating physician and that the ALJ’s credibility determinations are not supported by the record. As the district court observed, the ALJ may well have considered the treating physician’s deposition testimony but chose not to discuss it. Slip op. at 14. “In denying disability [benefits], the ALJ does not have to discuss every piece of evidence presented, but must develop the record fully and fairly.” Miller v. Shalala, 8 F.3d 611, 613 (8th Cir. 1993) (per curiam) (citing Walker v. Bowen, 834 F.2d 635 (7th Cir. 1987)). Moreover, the ALJ was warranted in discrediting some of the treating physician’s opinions, as well as certain aspects of Weber’s and his wife’s testimony, in light of other inconsistent or contradictory evidence in the record. These conclusions have been thoroughly explained by the district court and require no further discussion.

In sum, we hold in the present case that the record has been fully and fairly developed by the ALJ and that there is substantial evidence in the record as a whole to support the ALJ’s decision. The order of the district court is affirmed. See 8th Cir. R. 47B.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.