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PATRICK FISHER
Clerk

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

SHEILA CONN,

Plaintiff-Appellant,

v.

KENNETH S. APFEL, Commissioner,
Social Security Administration,*

Defendant-Appellee.

No. 97-5029
(D.C. No. 95-CV-266-W)
(N.D. Okla.)

ORDER AND JUDGMENT**

Before KELLY, McKAY, and BRISCOE, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously to grant the parties' request for a decision on the briefs without oral argument. See Fed. R. App. P. 34(f); 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument.

* Pursuant to Fed. R. App. P. 43(c), Kenneth S. Apfel, Commissioner of Social Security, is substituted for Shirley S. Chater as the defendant in this action.

** This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Claimant Sheila Conn appeals the district court's order¹ affirming the Commissioner's decision to deny her application for social security disability benefits. The Commissioner determined that Ms. Conn could perform sedentary work available in significant numbers in the local and national economies and, therefore, she is not disabled within the meaning of the Social Security Act. Ms. Conn contends that the Commissioner failed to evaluate properly her nonexertional impairments and failed to consider evidence submitted. We affirm.

We review the Commissioner's decision to determine whether the findings of fact are supported by substantial evidence based on the entire record, and to ascertain whether he applied the correct legal standards. See Castellano v. Secretary of Health & Human Servs., 26 F.3d 1027, 1028 (10th Cir. 1994). Substantial evidence is “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” Soliz v. Chater, 82 F.3d 373, 375 (10th Cir. 1996) (quoting Richardson v. Perales, 402 U.S. 389, 401 (1971) (further quotation omitted)). “We closely examine the record as a whole to determine whether substantial evidence supports the [Commissioner's] decision, and we fully consider the evidence that detracts from [his] decision.” Cruse v.

¹ The parties consented to proceed before a magistrate judge. See 28 U.S.C. § 636(c).

United States Dep't of Health & Human Servs., 49 F.3d 614, 617 (10th Cir. 1995).

We have carefully reviewed the record on appeal, as well as the briefs submitted by the parties. Applying the standards set out above, we conclude for substantially the same reasons stated in the magistrate judge's December 17, 1996 order, that substantial evidence supports the determination that Ms. Conn is not disabled within the meaning of the Social Security Act.

The judgment of the United States District Court for the Northern District of Oklahoma is AFFIRMED.

Entered for the Court

Monroe G. McKay
Circuit Judge