

**UNITED STATES COURT OF APPEALS**  
**FOR THE TENTH CIRCUIT**

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**JUN 4 1999**

**PATRICK FISHER**  
Clerk

RONALD L. MCKAY,

Plaintiff-Appellant,

v.

KENNETH S. APFEL, Commissioner  
of Social Security Administration,

Defendant-Appellee.

No. 98-5132  
(D.C. No. 96-CV-787-J)  
(N.D. Okla.)

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**ORDER AND JUDGMENT** \*

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Before **TACHA** , **BARRETT** , and **MURPHY** , Circuit Judges.

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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(G). The case is therefore ordered submitted without oral argument.

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\* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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 Ronald L. McKay appeals from the district court's order affirming the decision of the Commissioner of Social Security. In that decision, the Commissioner denied claimant's application for disability insurance benefits made under Title II of the Social Security Act. *See* 42 U.S.C. § 423. We exercise jurisdiction under 42 U.S.C. § 405(g) and 28 U.S.C. § 1291, and affirm.

On appeal, claimant contends that the administrative law judge (ALJ) impermissibly ignored some of the medical evidence, "incorrectly appl[ied] the test for whether or not the claimant's pain coupled with other factors was disabling"; and improperly assumed that because claimant had worked with "massive amounts of pain [] he could continue to do so with a simple modification . . . to light exertional level." Appellant's Br. at 2. Claimant asserts that these errors resulted in an erroneous conclusion at step five of the sequential process that claimant maintains the ability to perform a limited range of light work. *See Williams v. Bowen*, 844 F.2d 748, 750 (10th Cir. 1988).

Having carefully reviewed the entire medical record, the parties' arguments, and the relevant law, for substantially the same reasons as set forth in the district court's order filed May 19, 1998, we conclude that the Commissioner's decision is supported by substantial evidence on the whole record and comports with the relevant legal standards. *See Casias v. Secretary of Health & Human Serv.*, 933 F.2d 799, 800-01 (10th Cir. 1991).

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

Entered for the Court

James E. Barrett  
Senior Circuit Judge