FILED
United States Court of Appeals
Tenth Circuit

October 22, 2026

Christopher M. Wolpert
Clerk of Court

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

CHARITY MAXFIELD,

Plaintiff - Appellant,

v.

FRANK BISIGNANO,
Commissioner of Social Security,

Defendant - Appellee.

No. 25-4136
(D.C. No. 1:24-CV-00130-CMR)
(D. Utah)

ORDER AND JUDGMENT*

Before **HARTZ**, **KELLY**, and **CARSON**, Circuit Judges.

Charity Maxfield, proceeding pro se, appeals from a district-court order affirming the Commissioner's denial of disability-insurance benefits. Exercising jurisdiction under 28 U.S.C. § 1291 and 42 U.S.C. § 405(g), we affirm.

I

Maxfield applied for benefits, claiming she was disabled by neck and back problems, tinnitus, incontinence, and a cyst. The Commissioner denied her claim

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* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

initially and on reconsideration. Maxfield then requested and received a hearing before an administrative law judge (ALJ), who determined she was severely impaired by cervical and lumbar degenerative disc disease, pulsatile tinnitus, urinary incontinence, inflammatory arthritis, and bilateral shoulder bursitis. Despite these impairments, the ALJ concluded at step five of the agency's five-step evaluation process, *see Wall v. Astrue*, 561 F.3d 1048, 1052 (10th Cir. 2009) (explaining the process), that Maxfield retained the residual functional capacity (RFC) to perform light work. The ALJ determined she could work as a router, a deli cutter, and an information clerk and therefore was not disabled. The Appeals Council denied review, and the district court affirmed the Commissioner's decision.

II

"We review the Commissioner's decision to determine whether the factual findings are supported by substantial evidence in the record and whether the correct legal standards were applied." *Staheli v. Comm'r, SSA*, 84 F.4th 901, 905 (10th Cir. 2023) (internal quotation marks omitted). "But in making this determination, we cannot reweigh the evidence or substitute our judgment for the administrative law judge's." *Smith v. Colvin*, 821 F.3d 1264, 1266 (10th Cir. 2016).

On appeal Maxfield raises seven broad issues. But in district court she argued only that the ALJ (1) improperly accounted for her tinnitus in assessing her RFC, and (2) incorrectly evaluated her providers' opinions.

When an appellant raises new arguments or theories on appeal, we usually deem them forfeited and decline to consider them absent a showing of plain error.

See Richison v. Ernest Grp., Inc., 634 F.3d 1123, 1127-28 (10th Cir. 2011). Maxfield does not request plain-error review in her opening brief, and she makes only a cursory reference to plain error in her reply brief, without analyzing or applying the rigorous plain-error standard to her new arguments. "We will not apply a standard of review for [Maxfield] on our own initiative, without the benefit of the adversarial process, and without any opportunity for [the Commissioner] to be heard on the question." *Platt v. Winnebago Indus., Inc.*, 960 F.3d 1264, 1273 (10th Cir. 2020) (internal quotation marks omitted). Thus, we decline to consider her new appellate arguments to the extent they vary from the arguments she preserved in the district court. *See Richison*, 634 F.3d at 1131 ("[T]he failure to argue for plain error and its application on appeal . . . surely marks the end of the road for an argument for reversal not first presented to the district court."). Although Maxfield is pro se, she must abide by the same rules that govern all litigants. *See Garrett v. Selby Connor Maddux & Janer*, 425 F.3d 836, 840 (10th Cir. 2005).

A. Tinnitus

We first consider Maxfield's contention that the ALJ's RFC assessment fails to properly account for her tinnitus, particularly her difficulty concentrating and staying on task. She also says the ALJ failed to evaluate the intensity and persistence of her symptoms. The record does not support these contentions.[1]

[1] In district court Maxfield asserted her tinnitus was worse in quiet settings, and the ALJ's restriction from "even moderate exposure to noise," R. at 38, would only exacerbate her symptoms. Maxfield does not pursue that theory on appeal, so we do not consider it. *See In re Syngenta AG MIR 162 Corn Litig.*, 61 F.4th 1126,

The ALJ first recited Maxfield's description of her tinnitus, including that she could "hear the constriction of her blood vessels with nonstop beating in her head," which was "like someone hitting a pan next to her head nonstop." R. at 39. The ALJ noted she testified her symptoms made "her dizzy [and] nause[ou]s"; her eyes would blur and pulse, moving "with the sound and in sync with her heartbeat." *Id.* The ALJ reported that "[b]ecause of the noise she [could not] focus and became suicidal. She said that noise gets louder and louder and causes difficulty sleeping . . . ." *Id.*

But the ALJ determined that Maxfield's "statements concerning the intensity, persistence and limiting effects of these symptoms are not entirely consistent with the medical evidence and other evidence in the record . . . ." *Id.* To support this finding, the ALJ exhaustively discussed the medical evidence of Maxfield's tinnitus from its alleged onset shortly after she underwent a cervical injection on July 21, 2020. Three days later, she went to the emergency room reporting a "whooshing sound in [her] ear for the past 3 days." *Id.* at 41. The ALJ observed that her physical exam at the time was unremarkable and a CT scan revealed "no acute vascular abnormalities." *Id.* An evaluation by an ear, nose, and throat (ENT) specialist was "essentially normal," as were her audiogram and magnetic-resonance imaging/angiography (MRI/MRA) of her brain and head. *Id.* Maxfield also underwent a vascular consultation, but "the provider observed no arterial pathology that would explain her

1181 (10th Cir. 2023) (recognizing that parties can "waive appellate review of an issue by not arguing it—or arguing it in an inadequate manner—in one's opening brief").

symptoms . . . and [her] physical exam was normal." *Id.* The ENT reviewed these images and found no "obvious origin" for her symptoms. *Id.*

As for treatment, the ALJ observed that Maxfield reported, "Norco was very beneficial in relieving discomfort associated with [her] left ear pulsatile tinnitus." *Id.* at 42. Her ENT noted that symptom treatment would typically involve psychiatric evaluation and psychotropic medications to help cope with the sounds, *see id.* at 1020, but Maxfield apparently did not pursue a psychological evaluation. Instead, the ALJ noted that "medications were effective at helping to alleviate pain and increase functionality and ability for activities." *Id.* at 42. The ALJ also noted that a May 2021 CT scan indicated she had "a high riding left jugular bulb that is often associated with left tinnitus," but her "opioids were providing reasonable/adequate pain relief." *Id*. Additionally, as the ALJ observed, Maxfield's ENT examined her again in June 2021 and said her ear canals were healthy with no obvious cause of her tinnitus. *Id.* at 42-43. A November 20, 2021 CT scan further indicated there were no changes from her prior exam and "[n]o evidence of jugular bulb dehiscen[ce]." *Id.* at 1179. Moreover, the ALJ noted that, because her MRIs, MRAs, CT scans, and audiograms were all normal, a neurologist suspected "sleep apnea may be causing the bulk of her symptoms[,] including possibly tinnitus." *Id.* at 43. Finally, the ALJ observed that the only relevant limitation for Maxfield's tinnitus was assessed by a state-agency medical consultant, who found she should "[a]void concentrated exposure to very loud noise" due to her diagnosis of tinnitus. *Id.* at 92.

Based on this evidence, all of which the ALJ discussed, Maxfield's RFC includes a limitation that "[s]he should avoid even moderate exposure to noise." *Id.* at 38. The ALJ's RFC assessment is supported by substantial evidence. *See Wilson v. Astrue*, 602 F.3d 1136, 1140 (10th Cir. 2010) ("Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." (internal quotation marks omitted)).

B. Medical Opinions

Maxfield contends the ALJ improperly evaluated multiple medical opinions. But the only ones mentioned in this connection in her district-court brief were those of Dr. Howard Reichman and a physician's assistant (PA), Mark Udy.[2]

"A medical opinion is a statement from a medical source about what [a claimant] can still do despite [her] impairment(s) and whether [she] ha[s] one or more impairment-related limitations or restrictions . . . ." 20 C.F.R. § 404.1513(a)(2). An ALJ evaluates a medical opinion by considering five factors: supportability, consistency, relationship with the claimant, specialization, and other factors, including the medical source's familiarity with other evidence in the claim. § 404.1520c(c). "[S]tatements by a medical source reflecting judgments about the

[2] Maxfield also referenced a third provider, Dell Felix, a physical therapist who completed a functional capacity evaluation (FCE). On appeal, however, Maxfield says only that the ALJ "dismissed [the FCE] as 'subjective,' ignoring objective tests (grip strength, range)." Aplt. Br. at 13. But she does not explain this statement or develop an argument, thus waiving the issue. *See In re Syngenta AG MIR 162 Corn Litig.*, 61 F.4th at 1181.

nature and severity of a claimant's impairments and her prognoses are not considered 'medical opinions.'" *Staheli*, 84 F.4th at 905.

Dr. Reichman completed a form on which he wrote, "pt. is disabled." R. at 1352. He also checked boxes indicating Maxfield could sit, stand, and finger only one to two hours in an eight-hour workday, and she was permanently restricted from walking, bending, squatting, crawling, reaching, lifting, carrying, driving, and pushing/pulling. *See id.* Additionally, he wrote that "patient is unable to perform work of any kind." *Id.* at 1353. The ALJ found that Dr. Reichman's opinion was "not persuasive." *Id.* at 46.

Maxfield argues that Dr. Reichman's "opinions align with disability but were undervalued." Aplt. Br. at 13. To the extent she invites us to reweigh his opinion, we have no authority to do so. *See Smith*, 821 F.3d at 1266. To the extent she contends his statement that she was disabled should control, she is mistaken. A doctor's assessment of an issue reserved to the Commissioner, including whether a claimant is disabled, "is 'neither valuable nor persuasive,' and the ALJ is not required to 'provide any analysis about how [she] considered such evidence in [her] determination or decision.'" *Staheli*, 84 F.4th at 906 (quoting § 404.1520b(c)). Maxfield fails to show that the ALJ erred in evaluating Dr. Reichman's opinion.

Maxfield also makes a poorly developed argument about PA Udy's opinion. He gave her a "poor" prognosis and checked boxes indicating significant limitations (namely, in an eight-hour workday, she could lift up to 10 pounds, stand or walk for two hours, and sit for two to four hours). R. at 1209. The ALJ found this opinion

unpersuasive, but Maxfield says the ALJ failed to address its consistency with her pain records.

Not so. The ALJ pointed out that PA Udy's opinion was not supported by his own pain-management notes. For example, in the March 23, 2023 progress note cited by Maxfield, PA Udy stated her "opioid therapy is providing reasonable/adequate pain relief and is allowing [her] to be more functional and active." R. at 1326. Based on this and similar records, the ALJ observed that "[t]he pain management record overall show[s] significant benefit to fairly conservative treatment over time." *Id.* at 46. Also, the ALJ said that Maxfield's "medications have consistently been noted to be effective, with improvement in functional ability." *Id.* Thus, the ALJ found that PA Udy's opinion was "not consistent with [the] longitudinal view of the clinical exams of other treating providers . . . ." *Id.* at 46.

The ALJ reasonably evaluated PA Udy's opinion and explained why it was not supported by the medical evidence and was inconsistent with opinions from other medical sources. *See* § 404.1520c(c). To the extent Maxfield suggests that PA Udy's "poor" prognosis is supported by her pain records, the prognosis is not a "medical opinion." *Staheli*, 84 F.4th at 907 (citing § 404.1513(a)(2)).

III

The district court's judgment is affirmed.

Entered for the Court

Harris L Hartz
Circuit Judge