Mental Impairments as Determined in Social Security Disability Claims

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The Opinion of a Treating Physician Is Not Dispositive of Ultimate Findings and the Role of Mental Impairments in Social Security Disability Claims

In *Best-Willie v. Colvin*, 514 F. App'x 728 (10th Cir. 2013), the United States Court of Appeals for the Tenth Circuit upheld the U.S. District Court of Utah's decision supporting the Social Security Commissioner's denial of Michelle Best-Willie's application for social security disability benefits. In upholding this decision, the appeals court agreed with the lower court ruling that discounted the treating physician's opinion because it was inconsistent with Ms. Best-Willie's record.

Facts of the Case

In early 2007, Ms. Best-Willie was a 43-year-old woman who had been working in customer service when she began experiencing abdominal pain. She underwent a series of medical tests, but health professionals could not find a physiological explanation for her pain. When she applied for Social Security disability benefits in June of that year, she argued that she could no longer work as a result of her pain. Her disability request, however, was denied a few months later.

It was soon determined that Ms. Best-Willie's pain had a psychological component, and she began to see a psychiatrist. The diagnosis included depression, anxiety, and a somatoform disorder. Again, Ms. Best-Willie applied for disability insurance, but again, her request was denied.

As per the appeals process for social security disability benefits, an Administrative Law Judge (ALJ) heard the case after Ms. Best-Willie's second denial. To obtain disability benefits, one's eligibility is determined through a five-step sequential process, and the ALJ determined that Ms. Best-Willie's case failed at step four of this process. In particular, the ALJ noted that, although Ms. Best-Willie had severe impairments (including mild degenerative disk disease of the spine, morbid obesity, sleep apnea, carpal tunnel syndrome, asthma, major depression, generalized anxiety disorder, and somatoform disorder), "these impairments did not meet or equal the listings for presumptive disability" (*Best-Willie*, p 730). The ALJ also questioned Ms. Best-Willie's credibility. Further, the ALJ expressed that Ms. Best-Willie had the residual functional capacity (RFC) to engage in work that she had performed in the past, such as photocopying. Thus, the ALJ argued that she could work and did not meet eligibility requirements for disability benefits.

The Appeals Council denied Ms. Best-Willie's request to review her application further. She subsequently filed a suit in the Federal District Court of Utah. The district court upheld the previous decision to deny her disability benefits. She appealed the case, and the United States Court of Appeals for the Tenth Circuit then heard the case.

In her appeal, Ms. Best-Willie asserted the following challenges to the Commissioner's decision:

> The ALJ erred (1) in rejecting the opinions of her treating physicians, Drs. Hall and Charlat; (2) in concluding that she did not meet Listing 12.06 (Anxiety Related Disorder); (3) in evaluating the credibility of her complaints of pain; (4) in failing to consider the lay witness statement of her husband; and (5) at steps four and five of the sequential process [*Best-Willie*, p 731].

Ruling and Reasoning

The Tenth Circuit Court of Appeals upheld the previous court's decision and denied a review of Ms. Best-Willie's application for disability benefits. They ruled on each one of her challenges and found that the Commissioner and the ALJ had correctly weighed the evidence. They also found that Ms. Best-Willie did not meet the criteria for disability benefits.

First, the court considered Ms. Best-Willie's assertion that the ALJ had erred in dismissing her medical doctors' opinions and did not give their opinions the appropriate weight. For example, Ms. Best-Willie's primary care physician, Dr. Hall, opined that Ms. Best-Willie had limited residual functional capacity (RFC; the most amount of work one can do despite

physical and mental impairments). In addition, another of her doctor's, Dr. Charlat, opined that she had mental limitations (*e.g.*, concentration difficulties) and would miss work as a result of her mental impairments. The court of appeals argued that the ALJ had thoroughly reviewed all of Ms. Best-Willie's medical records. The court found that the opinions of her physicians "were not supported by medically acceptable clinical and diagnostic techniques" (*Best-Willie*, p 733). In addition, the court found her physicians' opinions to be "inconsistent" with that of the other medical evidence from Ms. Best-Willie's medical records. In particular, previous medical records demonstrated that Ms. Best-Willie's disabilities were not severe and were well controlled by medications, even though her current physicians noted that she had debilitating impairments.

Next, the court reviewed Ms. Best-Willie's claim that the ALJ had erred in rejecting anxiety-related disorder as causing debilitating impairment. As part of the Social Security listing for an anxiety-related disorder (20 C.F.R. § 404, Subpt. P, App. 1, § 12.06 (2013)), a claimant is required to show that disability prevents any work outside the home. Ms. Best-Willie argued that her physician's opinion (that she could not function outside of her home) had been wrongly dismissed. The court again found that the ALJ had properly reviewed the evidence. Specifically, the court noted that the ALJ used all of the provided medical evidence in reaching a decision. In addition, the court noted that the medical records demonstrated that Ms. Best-Willie took medication for her anxiety, as well as her other mental and physical impairments. According to their review of the medical evidence, her medication helped control her anxiety.

Ms. Best-Willie further argued that the ALJ ignored later psychological reports that supported her claim that her anxiety was debilitating. The court disagreed, finding that a Psychiatric Review Technique Form had been completed in 2008, and the conclusions of the report were that Ms. Best-Willie's "mental impairments were not severe and did not equal a listing [*i.e.*, did not equal an impairment on Social Security's list of various mental and physical impairments that meet criteria for disabilities benefits]" (*Best-Willie*, p 735).

Ms. Best-Willie also challenged a claim that she was not credible. In particular, she argued that the ALJ inappropriately weighed her subjective pain. The ALJ found her claims about pain to be "unpersuasive," noting that the pain did not have a physical source and that her mental impairments were well controlled by medication. In addition, the ALJ noted that her level of daily activities was above what someone with such a high intensity of pain would be able to perform, and the judge questioned her credibility.

Ms. Best-Willie also challenged the ALJ, in that the ALJ did not use a letter written by her husband that further described her difficulties in making the decision. She argued that her husband's letter would have described how her impairments affected her in her daily life (*e.g.*, her concentration difficulties, her inability to sit for long periods). The court noted that the ALJ did not explicitly articulate whether this letter was used in the decision process; however, the court noted that any failure to recognize or use the letter was harmless.

Finally, Ms. Best-Willie argued that there was an error at step four of the five-step sequential process in determining her eligibility for disability. Within step four of this process, there are several phases, and Ms. Best-Willie claimed that the ALJ had erred with her RFC assessment, the exclusion of her doctors' listed limitations for Ms. Best-Willie, and failing to make "required findings regarding the physical and mental demands of her past relevant work" (*Best-Willie*, p 737). The ALJ determined that Ms. Best-Willie was capable of working, but in a restricted capacity. The court agreed with the ALJ's finding that Ms. Best-Willie was able to do some work.

Discussion

This case highlights that, although treating physician opinions are usually given primacy in Social Security disability determinations, that may not be a foregone conclusion in contested matters where the data are viewed as aligning with other expert opinions. In this case, the court affirmed that the ALJ had correctly weighed the medical evidence that was presented. More pertinently, the court determined that the ALJ had correctly disregarded Ms. Best-Willie's treating physicians' opinions in favor of other medical evidence.

Further, this case focuses on the importance of functional impairments versus diagnoses in disability determinations. Although Ms. Best-Willie had a combination of mental health impairments, including depression, anxiety, and a somatoform disorder, the focus of the ALJ, and subsequently of the court, was on how her impairments and symptoms from

these illnesses affected her ability to work. The ALJ found that she was able to work, despite having some impairments. In sum, while the Social Security disability act defines mental health impairments, such as anxiety-related disorders, the ALJ's focus in making disability decisions primarily rests on how the symptoms of these disorders manifest themselves to affect one's ability to function in daily work life. For both treating clinicians and experts who may become involved in these cases, these distinctions can be critical to the ultimate disposition of a case.

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Differences in Legal and Psychiatric Criteria of Mental Illness for Sex Offenders

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Despite Not Being Listed as a DSM-IV Diagnosis, Hebephilia Can Be a Qualifying Mental Impairment Under a Sex Offender Civil Commitment Statute

In *United States v. Caporale*, 701 F.3d 128 (4th Cir. 2012), the Fourth Circuit Court of Appeals reviewed the district court's decision under a sex offender civil commitment statute. Experts disagreed both whether hebephilia qualifies as a mental illness or disorder under the statute and whether the defendant posed a future risk. The district court agreed with the defense on both prongs. On appeal, the Fourth Circuit held that hebephilia is a serious mental illness or disorder. Still, the judgment was affirmed, as there was no clear error on the second prong of refraining from future illegal sexual conduct.

Facts of the Case

Patrick Caporale, age 59, had a history of sexual offenses with minors. From 1980 to 1992, he pleaded guilty to at least five charges, ranging from sexual contact with 12- to 13-year-old boys to recruiting underage individuals and filming sexual acts. He was granted supervised release in August 1998. In December 1999, Mr. Caporale was charged with parole violation for discussing masturbation with a 14-year-old boy. He returned to prison. In June 2001, he was again released under supervision. His parole was violated two years later for possession of child pornography.

He returned to prison in 2003 and remained until March 21, 2008, to complete the sentence for his 1992 conviction. On that day, the government petitioned for civil commitment under the Adam Walsh Child Protection and Safety Act of 2006, 18 U.S.C. § 4248 (2006). He remained in federal custody until a hearing on March 5, 2012.

In the months before the hearing, there was evidence that Mr. Caporale still had interest in pubescent boys. In 2008, he and other inmates used a prison computer to compose pornographic stories about teenage boys. In May 2011, suggestive photographs were seized from his cell.

At the hearing, all parties agreed that Mr. Caporale satisfied the first element of prior conduct under 18 U.S.C. § 4247(a)(5) (2006). It was the government's burden at the hearing to establish, by clear and convincing evidence, both prongs of the second element: that Mr. Caporale was impaired by a serious mental illness, abnormality, or disorder and that he would, if released, have serious difficulty in refraining from sexually violent conduct or child molestation.

A key question was whether Mr. Caporale had a qualifying illness, abnormality, or disorder under § 4247(a) (2006). The three experts each came to different diagnostic conclusions. Lela Demby, MD, felt that Mr. Caporale met the DSM-IV diagnosis of pedophilia (Diagnostic and Statistical Manual of Mental Disorders, APA, 1994; see *Caporale*, p 133). Pedophilia is sexual attraction to prepubescent children, as opposed to pubescent or postpubescent children. Dr. Demby noted that DSM-IV uses age 13 as the presumed ceiling for the diagnosis of pedophilia. Although she thought that Mr. Caporale was primarily attracted to prepubescent boys, she did admit that it was possible for 12-year-olds to be pubescent. Gary Zinik, MD, the other state expert, believed that Mr. Caporale in fact was interested in pubescent, rather than prepubescent, children. Instead of pedophilia, he believed that Mr. Caporale had hebephilia, a sexual interest in pubescent children. Although hebephilia is not listed as a specific DSM-IV diagnosis, Dr. Zinik testified that it would fall under the cate-