

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

FILOMENA LAMBAKIS,	:	CIVIL NO: 1:19-CV-01496
	:	
Plaintiff,	:	(Chief Magistrate Judge Schwab)
	:	
v.	:	
	:	
	:	
ANDREW SAUL,	:	
Commissioner of Social Security,	:	
	:	
Defendant.	:	
	:	

**MEMORANDUM OPINION**

**I. Introduction.**

This is a social security action brought under 42 U.S.C. § 405(g). The plaintiff, Filomena Lambakis, seeks judicial review of the final decision of the Commissioner of Social Security (“Commissioner”) denying her claims for Disability Insurance Benefits and Supplemental Security Income under Titles II and XVI of the Social Security Act. We have jurisdiction under 42 U.S.C. §§ 405(g) and 1383(c)(3). For the reasons set forth below, the Commissioner’s decision will be vacated, and the case will be remanded to the Commissioner for further consideration.

## II. Background and Procedural History.

We refer to the transcript provided by the Commissioner. *See docs. 4-1 to 4-18.*<sup>1</sup> In December 2016, Ms. Lambakis filed an application for Disability Insurance Benefits and an application for Supplemental Security Income contending that she became disabled on January 1, 2005. *Admin. Tr.* at 276–86. After the Commissioner denied Ms. Lambakis’s claims at the initial level of administrative review, Ms. Lambakis requested an administrative hearing. *Id.* at 221–22. On June 25, 2018, Administrative Law Judge (“ALJ”) Richard Guida held a hearing at which Ms. Lambakis and a vocational expert testified. *Id.* at 153–80. At the hearing, Ms. Lambakis, through her counsel, amended the alleged onset date of her disability to March 16, 2016. *Id.* at 174.

By a decision dated October 9, 2018, the ALJ determined that Ms. Lambakis was not disabled from March 16, 2016, through the date of his decision, and so he denied her benefits. *Id.* at 33. Ms. Lambakis appealed the ALJ’s decision to the Appeals Council, which denied her request for review on June 26, 2019. *Id.* at 1–4. This makes the ALJ’s decision the final decision of the Commissioner subject to judicial review by this court.

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<sup>1</sup> Because the facts of this case are well known to the parties, we do not repeat them here in detail. Instead, we recite only those facts that bear on Ms. Lambakis’s claims.

In August of 2019, Ms. Lambakis began this action by filing a complaint claiming that the ALJ erred and requesting that the court reverse the Commissioner’s decision and award her benefits and such other relief as is justified. *Doc. 1*. The Commissioner filed an answer and a certified transcript of the administrative proceedings. *Docs. 3, 4*. The parties, who consented to proceed before a magistrate judge pursuant to 28 U.S.C. § 636(c), have filed briefs, and this matter is ripe for decision. *Docs. 10–12*.

### **III. Legal Standards.**

#### **A. Substantial Evidence Review—the Role of This Court.**

When reviewing the Commissioner’s final decision denying a claimant’s application for benefits, “the court has plenary review of all legal issues decided by the Commissioner.” *Ficca v. Astrue*, 901 F. Supp. 2d 533, 536 (M.D. Pa. 2012). But the court’s review of the Commissioner’s factual findings is limited to whether substantial evidence supports those findings. *See* 42 U.S.C. § 405(g); *Biestek v. Berryhill*, 139 S. Ct. 1148, 1152 (2019). “[T]he threshold for such evidentiary sufficiency is not high.” *Biestek*, 139 S. Ct. at 1154. Substantial evidence “means—and means only—‘such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.’” *Id.* (quoting *Consol. Edison Co. of New York v. N.L.R.B.*, 305 U.S. 197, 229 (1938)).

Substantial evidence “is less than a preponderance of the evidence but more than a mere scintilla.” *Jesurum v. Sec’y of U.S. Dep’t of Health & Human Servs.*, 48 F.3d 114, 117 (3d Cir. 1995). A single piece of evidence is not substantial evidence if the ALJ ignores countervailing evidence or fails to resolve a conflict created by the evidence. *Mason v. Shalala*, 994 F.2d 1058, 1064 (3d Cir. 1993). But in an adequately developed factual record, substantial evidence may be “something less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent [the ALJ’s] finding from being supported by substantial evidence.” *Consolo v. Fed. Maritime Comm’n*, 383 U.S. 607, 620 (1966). “In determining if the Commissioner’s decision is supported by substantial evidence the court must scrutinize the record as a whole.” *Leslie v. Barnhart*, 304 F.Supp.2d 623, 627 (M.D. Pa. 2003).

The question before this court, therefore, is not whether Ms. Lambakis is disabled, but whether substantial evidence supports the Commissioner’s finding that she is not disabled and whether the Commissioner correctly applied the relevant law.

### **B. Initial Burdens of Proof, Persuasion, and Articulation for the ALJ.**

To receive benefits under the Social Security Act by reason of disability, a claimant must demonstrate an inability to “engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.” 42 U.S.C.

§§ 423(d)(1)(A), 1382c(a)(3)(A); *see also* 20 C.F.R. §§ 404.1505(a), 416.905(a).

To satisfy this requirement, a claimant must have a severe physical or mental impairment that makes it impossible to do his or her previous work or any other substantial gainful activity that exists in the national economy. 42 U.S.C.

§§ 423(d)(2)(A), 1382c(a)(3)(B); 20 C.F.R. §§ 404.1505(a), 416.905(a).

To receive disability insurance benefits under Title II of the Social Security Act, a claimant must show that he or she contributed to the insurance program, is under retirement age, and became disabled prior to the date on which he or she was last insured. 42 U.S.C. § 423(a); 20 C.F.R. § 404.131(a).<sup>2</sup> Unlike with disability

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<sup>2</sup> “Disability insurance benefits are paid to an individual if that individual is disabled and ‘insured,’ that is, the individual has worked long enough and paid social security taxes.” *Jury v. Colvin*, No. 3:12-CV-2002, 2014 WL 1028439, at \*1 n.5 (M.D. Pa. Mar. 14, 2014) (citing 42 U.S.C. §§ 415(a), 416(i)(1)). “The last date that an individual meets the requirements of being insured is commonly referred to as the ‘date last insured.’” *Id.* (citing 42 U.S.C. § 416(i)(2)). Here, the

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