

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
NEW YORK

David M. T., II v. Commissioner of Social Security

No. 5:24-CV-01262 (PJE) (N.D.N.Y. Mar. 9, 2026) · No. 5:24-CV-01262 (PJE) · Decided March 9, 2026

SUMMARY

This Memorandum-Decision and Order concerns a Social Security disability benefits action brought under 42 U.S.C. § 405(g) in the Northern District of New York. The court reviews the ALJ’s finding that the plaintiff was not disabled, including the residual functional capacity assessment and the step-five vocational-expert evidence concerning conflicts with the Dictionary of Occupational Titles and the number of available jobs.

CASE DETAILS

COURT	United States District Court for the Northern District of New York
WRITING FOR THE COURT	Paul J. Evangelista
JURISDICTION	United States District Court for the Northern District of New York
DECIDED	March 9, 2026
DOCKET	5:24-CV-01262 (PJE)
DISPOSITION	affirmed
PROCEDURAL POSTURE	Judicial review under 42 U.S.C. § 405(g) of the Commissioner's denial of disability insurance benefits. The parties cross-moved for judgment on the pleadings, with the plaintiff seeking vacatur and remand and the Commissioner seeking affirmance.
STANDARD OF REVIEW	The court reviews the Commissioner's decision to determine whether the correct legal standards were applied and whether the decision is supported by substantial evidence. The court may not decide disability de novo and must uphold the decision when substantial evidence supports it, even if the evidence is susceptible to more than one rational interpretation.
PRECEDENTIAL VALUE	nonprecedential district-court memorandum-decision and order
PARTIES	David M. T., II v. Commissioner of Social Security

TOPICS

judicial review of agency action

administrative law

disability definition

PRACTICE AREAS

Social Security disability

administrative law

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vocational evidence

QUESTIONS PRESENTED

1. Whether the ALJ's step-five finding was supported by substantial evidence despite an alleged conflict between the vocational expert's testimony concerning the routing-clerk position and the residual-functional-capacity limitation against fast production-rate work.
2. Whether the vocational expert's failure to identify the specific source of the job-number estimates required remand.
3. Whether the number of jobs remaining after excluding the routing-clerk position was significant under the Social Security Act.
4. Whether reliance on job numbers from the earlier 2022 hearing, rather than the 2024 hearing, required remand.

HOLDINGS

1. The court recognized a potential unresolved conflict between the routing-clerk description in the Dictionary of Occupational Titles and the RFC limitation against fast production-rate work, but held that the issue did not require remand because the ALJ identified at least two other jobs existing in significant numbers that plaintiff could perform.
2. The vocational expert's failure to identify the specific source of the job-number estimates did not require remand.
3. Approximately 9,957 jobs in the national economy constitute a significant number of jobs sufficient to satisfy the Commissioner's step-five burden in this case.
4. The ALJ's use of the 2022 vocational expert's job numbers rather than the 2024 vocational expert's numbers was not an independent ground for remand.

KEY QUOTATIONS

“Although plaintiff’s counsel suggested total number of 9,957 available jobs is slightly under 10,000, a number some courts have chosen as a “cut off,” the Court declines to adopt 10,000 jobs as a bright-line rule.” (at 18)

“In sum, the undersigned concludes that whether the analysis considers the VE's employment figures as adopted by the ALJ or the proposed employment figures provided by the plaintiffs counsel, the Commissioner satisfies his burden at step five.” (at 18)

FACTUAL BACKGROUND

Plaintiff protectively filed for Title II disability insurance benefits, alleging disability beginning October 15, 2017, with a date last insured of December 31, 2020. The ALJ found severe physical and mental impairments,

including disc protrusions, anxiety and depressive disorders, panic disorder, a history of spontaneous pneumothorax, and asthma, but found that plaintiff retained the residual functional capacity for a restricted range of light work. A vocational expert identified routing clerk, photocopying machine operator, and marker positions existing in significant numbers in the national economy.

PROCEDURAL HISTORY

Plaintiff applied for disability insurance benefits, was denied initially and on reconsideration, received an administrative hearing, and was found not disabled by an ALJ. After the Appeals Council denied review, plaintiff brought an earlier action that resulted in a sentence-four remand. The Appeals Council vacated the prior ALJ decision and remanded for further proceedings; ALJ Gretchen Greisler again found plaintiff not disabled on August 16, 2024. Plaintiff then commenced this action, and the court denied plaintiff's motion and granted the Commissioner's cross-motion.

DISPOSITION

affirmed

CASES CITED

- Wagner v. Sec'y of Health & Human Servs., 906 F.2d 856, 860 (2d Cir. 1990)
- Johnson v. Bowen, 817 F.2d 983, 985-86 (2d Cir. 1987)
- Halloran v. Barnhart, 362 F.3d 28, 31 (2d Cir. 2004) (per curiam)
- Richardson v. Perales, 402 U.S. 389, 401 (1971)
- Brault v. Soc. Sec. Admin., Comm'r, 683 F.3d 443, 448, 450-51 (2d Cir. 2012) (per curiam)
- Clark v. Comm'r of Soc. Sec., 143 F.3d 115, 118 (2d Cir. 1998)
- Beauvoir v. Chater, 104 F.3d 1432, 1433 (2d Cir. 1997)
- Martone v. Apfel, 70 F. Supp. 2d 145, 148 (N.D.N.Y. 1999)
- Schillo v. Kijakazi, 31 F.4th 64, 74 (2d Cir. 2022)
- McIntyre v. Colvin, 758 F.3d 146, 149, 152 (2d Cir. 2014)
- Berry v. Schweiker, 675 F.2d 464, 467 (2d Cir. 1982)
- Barnhart v. Thomas, 540 U.S. 20, 24 (2003)
- DeChirico v. Callahan, 134 F.3d 1177, 1180 (2d Cir. 1998)
- Marjanovic v. Comm'r of Soc. Sec., No. 19-CV-246-FPG, 2020 WL 3445676, at *3 (W.D.N.Y. June 23, 2020)
- Palacios v. Berryhill, 17-cv-04802 (ALC), 2018 WL 4565141, at *12 (S.D.N.Y. Sept. 24, 2018)
- Abigail L. v. Kijakazi, No. CV 21-2275 (FLW), 2022 WL 16362468, at *13 (D.N.J. Oct. 27, 2022)
- Danilowicz v. Kijakazi, No. 20-01605, 2022 WL 19624, at *7 (M.D. Pa. Jan. 3, 2022)
- Inoa v. Berryhill, No. 18-CV-163 (JPO), 2019 WL 1407487, at *5-6 (S.D.N.Y. Mar. 28, 2019)
- Paduani v. Colvin, No. 16-CV-2300 (LDH), 2017 WL 4351510, at *3 (E.D.N.Y. Sept. 29, 2017)
- Galiotti v. Astrue, 266 F. App'x 66, 68 (2d Cir. 2008) (summary order)

- Tiffany T. v. Comm'r of Soc. Sec., No. 3:22-CV-00626-MPS, 2023 WL 10949091, at *15 (D. Conn. Sept. 1, 2023), report and recommendation adopted, No. 3:22-CV-00626 (VAB), 2024 WL 1230256 (D. Conn. Mar. 22, 2024)
- Bruce C. v. Kijakazi, No. 3:20-CV-782 (DJS), 2021 WL 5112077, at *5 (N.D.N.Y. Nov. 3, 2021)
- Shanan L. v. Comm'r of Soc. Sec., 2020 WL 2404763, at *10 (N.D.N.Y. May 12, 2020)
- Michelle M. v. Comm'r of Soc. Sec., 2020 WL 495170, at *9 (N.D.N.Y. Jan. 30, 2020)
- Pamela M. H. v. Comm'r of Soc. Sec., No. 5:23-CV-00197 (AMN/CFH), 2024 WL 1468906, at *6 n.10 (N.D.N.Y. Feb. 22, 2024), report and recommendation adopted, No. 5:23-CV-00197 (AMN), 2024 WL 1131043 (N.D.N.Y. Mar. 15, 2024)
- Harvey v. Astrue, No. 5:05-CV-1094 (NAM), 2008 WL 4517809, at *15 (N.D.N.Y. Sept. 29, 2008)
- Donahue v. Barnhart, 279 F.3d 441, 446 (7th Cir. 2002)
- Poole v. Saul, 462 F. Supp. 3d 137, 165 (D. Conn. 2020)
- James B. v. Comm'r of Soc. Sec., No. 23-CV-873-FPG, 2024 WL 4471080, at *2 (W.D.N.Y. Oct. 11, 2024)
- Sean Michael S. v. Comm'r of Soc. Sec., No. 20-CV-942, 2021 WL 5918922, at *11 (N.D.N.Y. Dec. 15, 2021)
- Diane D. v. Saul, No. 5:18-CV-1146 (DJS), 2020 WL 1044136, at *6 (N.D.N.Y. Mar. 4, 2020)
- Hanson v. Comm'r of Soc. Sec., 2016 WL 3960486, at *13-14 (N.D.N.Y. June 29, 2016), report and recommendation adopted sub nom. Hanson v. Colvin, 2016 WL 3951150 (N.D.N.Y. July 20, 2016)
- Maldonado v. Comm'r of Soc. Sec., No. 21-CV-7594 (RWL), 2023 WL 243617, at *10 (S.D.N.Y. Jan. 18, 2023)
- Pichardo v. Comm'r of Soc. Sec., 714 F. Supp. 3d 183, 195 (E.D.N.Y. 2024)