

**UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
NORTH CAROLINA**

Bradley N.A. v. Bisignano

No. 1:25CV21 (M.D.N.C. Feb. 26, 2026) · No. 1:25CV21 · Decided February 26, 2026

OPINION

ALLRED

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
BRADLEY N.A.,)

) Plaintiff,) v.) 1:25CV21)

FRANK BISIGNANO,)

Commissioner of Social) Security,)) Defendant.)

ORDER AND MEMORANDUM OPINION

OF UNITED STATES MAGISTRATE JUDGE

Plaintiff Bradley N.A. (“Bradley”) I. PROCEDURAL HISTORY brought this action to obtain review of a final decision of the Commissioner Bradley filed an application for of Social Security denying his claim disability insurance benefits and a for social security disability insurance period of disability in July of 2021, benefits and a period of disability.¹ alleging a disability onset date of April The Court has considered the certified 15, 2021. (Tr. 160-61.) The administrative record and dispositive applications were denied initially and briefing from the parties. Because upon reconsideration. (Tr. 81-84, 87- substantial evidence supports the 91.) After a hearing, the determination of the Administrative Administrative Law Judge (“ALJ”) Law Judge, the Court will deny determined on November 8, 2023 Bradley’s request for remand, as set that Bradley was not disabled under forth below. the Act. (Tr. 17-56.) The Appeals Council denied a request for review, making the ALJ’s decision the final decision for review. (Tr. 1-6.) 1 Transcript citations refer to the 636(c). Docket Entry 10. Frank Administrative Transcript of Record filed Bisignano became the Commissioner of manually with the Commissioner’s the Social Security Administration on Answer. See Docket Entry 6. By Order of May 7, 2025. Pursuant to Federal Rule of Reference, this matter was referred to the Civil Procedure 25(d), Frank Bisignano is Undersigned to conduct all proceedings automatically substituted as the in this case pursuant to 28 U.S.C. § defendant in this suit. II. STANDARD OF REVIEW “The Commissioner uses a five-step process to evaluate disability claims.” While Section 405(g) of Title 42 of the Hancock v. Astrue, 667 F.3d 470, United States Code “authorizes 472-73 (4th Cir. 2012) (citing 20 judicial review of the Social Security C.F.R. §§ 416.920(a)(4), Commissioner’s denial of social 404.1520(a)(4)). security

benefits,” see *Hines v. Barnhart*, 453 F.3d 559, 561 (4th Cir. 2006), the scope of that review is Commissioner asks, in specific and narrow, see *Smith v. Schweiker*, 795 F.2d 343, 345 (4th Cir. 1986). Specifically, review is alleged period of disability; (2) limited to determining if there is had a severe impairment; (3) substantial evidence in the record to had an impairment that met or support the Commissioner’s decision. equaled the requirements of a 42 U.S.C. § 405(g); *Hunter v. Sullivan*, 993 F.2d 31, 34 (4th Cir. 1992); *Hays v. Sullivan*, 907 F.2d relevant work; and (5) if not, 1453, 1456 (4th Cir. 1990). In could perform any other work reviewing for substantial evidence, in the national economy. the Court does not re-weigh conflicting evidence, make credibility Id. at 472. A finding adverse to the determinations, or substitute its claimant at any of several points in judgment for that of the this five-step sequence forecloses a Commissioner. *Craig v. Chater*, 76 F.3d 585, 589 (4th Cir. 1996). Put inquiry. Id. at 473. “Through the simply: the issue before the Court is fourth step, the burden of production not whether Bradley is disabled but and proof is on the claimant. If the whether the finding that he is not claimant reaches step five, the burden disabled is supported by substantial shifts to the Secretary to produce evidence and based upon a correct evidence that other jobs exist in the application of the relevant law. Id. national economy that the claimant can perform considering his age, III. THE ALJ’S DECISION education, and work experience.” *Hunter*, 993 F.2d at 35 (internal The ALJ followed the correct process, citations omitted). set forth in 20 C.F.R. § 404.1520, to determine disability. See *Albright v. The ALJ* determined at step one that Comm’r of Soc. Sec. Admin., 174 F.3d Bradley had not engaged in 473, 475 n.2 (4th Cir. 1999). substantial gainful activity since the alleged onset date of April 15, 2021. (Tr. 19.) The ALJ next found the 2 following severe impairments at step two: insulin dependent diabetes IV. DISCUSSION mellitus type I; major depressive disorder; and generalized anxiety In his appeal, Bradley asserts only disorder. (Tr. 19.) At step three, the that “[t]he ALJ erred by failing to ALJ found that Plaintiff did not have explain the basis for the RFC an impairment or combination of conclusion that [he] ‘is able to impairments listed in, or medically understand, remember, and carry out equal to one listed in, Appendix 1. (Tr. instructions for 95 to 100% of an 8- 21.) hour workday,’ a conclusion that is arbitrary absent further explanation, The ALJ next set forth Bradley’s preventing substantial evidence from Residual Functional Capacity (“RFC”) supporting the ALJ’s decision.” and determined that he could perform Docket Entry 9 at 3. The record a reduced range of light work as demonstrates otherwise, as set forth follows: below. lift and/or carry 20 pounds A. The RFC Determination. occasionally and 10 pounds frequently, stand and/or walk 6 The RFC measures the most a hours total in an 8-hour claimant can do in a work setting workday and sit 6 hours total in despite the physical and mental an 8-hour workday. He is able limitations of his or her impairments to understand, remember, and and any related symptoms (e.g., pain). carry out instructions for 95 to See 20 C.F.R. § 404.1545(a)(1); see 100% of an 8-hour workday. also *Dunn v. Colvin*, 607 F. App’x The claimant is able to 264, 272 (4th Cir. 2015)

occasionally interact with the (unpublished) (claimant's RFC is "[a] public, coworkers and medical assessment of what an supervisors. He is able to individual can do in a work setting in concentrate and persist for spite of the functional limitations and simple tasks. The claimant is environmental restrictions imposed able to adapt to changes in a by all of his or her medically simple work setting. determinable impairment(s)") (internal citation omitted); Hines, (Tr. 22.) At the fourth step, the ALJ 453 F.3d at 562. The RFC includes determined that Bradley was unable both a "physical exertional or strength to perform his past relevant work. limitation" that assesses the (Tr. 25.) Last, at step five, the ALJ claimant's "ability to do sedentary, concluded that there were other jobs light, medium, heavy, or very heavy in the national economy that Bradley work," as well as "nonexertional could perform. (Tr. 26.) limitations (mental, sensory or skin 3 impairments)." Hall v. Harris, 658 noted earlier, the ALJ "must both F.2d 260, 265 (4th Cir. 1981). identify evidence that supports his conclusion and 'build an accurate and "Social Security Ruling 96-8p logical bridge from [that] evidence to explains that the RFC assessment his conclusion.'" Woods v. Berryhill, must include a narrative discussion 888 F.3d 686, 694 (4th Cir. 2018) describing how the evidence supports (alteration in original) (quoting each conclusion, citing specific Monroe, 826 F.3d at 189). Failure to medical facts (e.g., laboratory do so constitutes reversible error. See findings) and nonmedical evidence Lewis v. Berryhill, 858 F.3d 858, 868 (e.g., daily activities, observations)." (4th Cir. 2017). Where an ALJ's Monroe v. Colvin, 826 F.3d 176, 189 "analysis is incomplete and precludes (4th Cir. 2016) (internal quotations meaningful review," remand is omitted). An ALJ need not discuss appropriate. Monroe, 826 F.3d at 191. every piece of evidence in making an RFC determination. See Reid v. Moreover, "[a]n ALJ assesses the Comm'r of Soc. Sec., 769 F.3d 861, credibility of a claimant's subjective 865 (4th Cir. 2014). Yet, the ALJ statements about his condition as part "must build an accurate and logical of the RFC assessment," Ladda v. bridge from the evidence to [the] Berryhill, 749 F. App'x 166, 170 (4th conclusion." Brown v. Commissioner, Cir. 2018) (unpublished), using a two- 873 F.3d 251, 269 (4th Cir. 2017). part test: "First, there must be "The RFC assessment must first objective medical evidence showing identify the individual's functional 'the existence of a medical limitations or restrictions and assess impairment(s) which results from his or her work-related abilities on a anatomical, physiological, or function-by-function basis Only psychological abnormalities and [then] may RFC be expressed in terms which could reasonably be expected to of the exertional levels of work, produce the pain or other symptoms sedentary, light, medium, heavy, and alleged,'" Craig, 76 F.3d at 594 (citing very heavy." SSR 96-8p, 1996 WL 20 C.F.R. §§ 416.929(b), 374184, at *1. 404.1529(b)). The Fourth Circuit has held that If such an impairment exists, the ALJ "meaningful review is frustrated when must then consider, as the second an ALJ goes straight from listing the prong of the test, all available evidence to stating a conclusion." evidence, including the claimant's Thomas v. Berryhill, 916 F.3d 307, statements about pain, to determine 311 (4th Cir. 2019) (explaining that "a whether the claimant is disabled. Id. proper RFC analysis has three at 595-96. In so doing, the ALJ need components: (1) evidence, (2) logical not

credit them if they conflict with explanation, and (3) conclusion”). As the objective medical evidence or if 4 the underlying impairment could not relieve his pain or other reasonably be expected to cause the symptoms (e.g., lying flat symptoms alleged. *Id.* Where the ALJ on [her] back, standing has considered the relevant factors, for 15 to 20 minutes see 20 C.F.R. § 404.1529(c)(3), and every hour, sleeping on a heard the claimant’s testimony and board, etc.); and observed his or her demeanor, the Court will defer to the ALJ’s (vii) Other factors concerning determination regarding those [Plaintiff’s] functional subjective complaints. *Shively v. limitations and Heckler*, 739 F.2d 987, 989 (4th Cir. restrictions due to pain 1984). or other symptoms. Those relevant factors include: 20 C.F.R. § 404.1529(c)(3). (i) [Plaintiff’s] daily B. The ALJ’s Off Task Finding Was activities; Proper. (ii) The location, duration, Here, Bradley’s assertion that the frequency, and intensity Court should remand this case for the of [Plaintiff’s] pain or ALJ to better explain her finding that other symptoms; he is able to understand, remember, and carry out instructions for 95 to (iii) Precipitating and 100% of an 8-hour workday is not aggravating factors; persuasive. (iv) The type, dosage, First, absent a binding rule rejecting effectiveness, and side the use of a numerical off-task-time effects of any medication figure, it would be improper to [Plaintiff] take[s] or remand here what is in essence a [has] taken to alleviate numerical off-task-time figure on that his pain or other ground alone. See *England v. symptoms; Comm’r of Soc. Sec.*, No. 15-12818, 2016 WL 8114219, at *14-15 (E.D. (v) Treatment, other than Mich. July 11, 2016) (“[S]ome courts medication, [Plaintiff] reject the use of percentages to receive[s] or [has] describe [concentration, persistence, received for relief of his and pace] deficiencies wholesale, pain or other symptoms; other courts look to whether the ALJ presented sufficient justification for (vi) Any measures [Plaintiff] the percentage chosen, and yet others use[s] or [has] used to reject challenges to the chosen 5 percentage unless the claimant can only occasional interaction with show that the ALJ’s favored others. (Tr. 22.) The ALJ thus percentage is inaccurate. There is no disqualified Bradley from performing precedent in this circuit precluding any complex tasks or having frequent the use of a numerical off-task-time or constant exposure to others and, figure to represent qualitative deficits despite this, could still identify other in [concentration, persistence, and jobs in the national economy that pace]; rejecting the ALJ’s use of the Bradley could perform. (Tr. 26.) And eight percent figure out of hand would Bradley only challenges what is, in be inappropriate.”). essence, the ALJ’s numerical off-task finding.² There is no such binding precedent in the Fourth Circuit, and, in fact, The question then is whether the ALJ unpublished Fourth Circuit case law built a logical bridge here between the suggests quite the opposite, as it has record evidence and her conclusion upheld an off-task time figure like the that Bradley could understand, one at issue here. See *Rebecca J. v. remember, and carry out instructions Kijakazi*, No. 22-1531, 2023 WL for 95 to 100% of the time. Logically, 3970022, at *3 (4th Cir. June 13, the inverse of this is true as well: 2023) (concluding that the ALJ built a whether the ALJ built a logical bridge logical bridge between the between the record evidence and her administrative record and her finding conclusion that Plaintiff was unable to that plaintiff would be off task no

understand, remember, and carry out more than 7% of the workday). instructions for (at most) 5% of the time. Although the ALJ did not Second, the ALJ did not determine explain or set forth a formula as to Bradley's limitations solely by why she chose a five percent off task concluding that he was able to finding instead of two percent or six understand, remember, and carry out percent, that lack of precision is not a instructions for 95 to 100% of an 8- reason to reverse the decision. hour workday. That limitation was Because: the ALJ did not find only one part of the ALJ's overall evidence showing that Bradley's comprehensive efforts to account for ability to understand, remember, and Bradley's limitations. To that end, the carry out instructions was so ALJ also limited Bradley to simple compromised that he could not work. tasks in a simple work setting with See *Jordan v. Soc. Sec. Admin.*, No. 2 Bradley has therefore waived ALJ it in its opening brief or by failing to findings he has not challenged. See 'develop [the] argument'—even if [the] *Grayson O Co. v. Agadir Int'l LLC*, 856 brief takes a passing shot at the issue.") F.3d 307, 316 (4th Cir. 2017) ("A party (quoting *Brown v. Nucor Corp.*, 785 F.3d waives an argument by failing to present 895, 923 (4th Cir. 2015)). 6 CV 17-CV-03032-JMC, 2018 WL (M.D.N.C. Aug. 23, 2021). Because 4354196, at *3 (D. Md. Sept. 12, the ALJ's finding is supported by a 2018). logical bridge between the off task finding and the evidence in the In other words, the ALJ found that his record, there is no basis for remand. symptoms caused some time off task, but not a disabling amount of it. See More specifically, the ALJ identified *Shaw v. Kijakazi*, No. 1:20CV581, more than substantial evidence in her 2021 WL 3079905, at *9 (M.D.N.C. decision explaining why Bradley July 21, 2021) (finding no error where could understand, remember, and the ALJ found that the plaintiff carry out instructions for at least 95% "would be off task no more than ten of an 8-hour workday and would be percent of the time in an eight-hour off task for, at most, 5% of the workday" because "the ALJ found that workday. (Tr. 22.) For example, a [the p]laintiff's depressive disorder state agency consultant (Dr. Phillip caused some limitation in [his] ability Hatfield) examined Bradley and to remain on-task but not disabling concluded that he had no deficits in limitations," given the vocational his ability to understand, remember, expert's testimony that time off-task and carry out simple instructions. (Tr. up to ten percent was not work 664.) The ALJ noted Dr. Hatfield's preclusive) (emphasis added and conclusion and found it generally quotation marks omitted), report and persuasive, along with the rest of his recommendation adopted, No. medical opinion,³ as follows: "Dr. 1:20CV581, 2021 WL 6202788 Hatfield, a consultative examiner, 3 Dr. Hatfield also found that Bradley had and on a sustained basis is fair" whereas moderate impairments in the following a "marked" limitation reflects a "serious domains: completing a normal workday limit[ation]." 20 C.F.R. pt. 404, subpt. P, without disruption from psychologically- app. E, § 12.00F.2.c-d (emphasis added); based symptoms, performing at a see *Joseph D. W. v. O'Malley*, No. 1:23- consistent pace without an unreasonable cv-863, 2024 WL 3822724, at *6 number and length of rest periods, (M.D.N.C. Aug. 14, 2024) ("Plaintiff interacting appropriately with the public erroneously equates the and form working relationships with consultants' moderate limitation on supervisors and coworkers, and Plaintiff's

ability to accept instructions tolerating the normal stress and and respond appropriately to criticism pressures of a competitive workplace. from supervisors as an ‘inability’ to do (Tr. 664.) Dr. Hatfield did not otherwise so.”). The ALJ addressed these moderate define the term “moderate[] impairments by adopting an RFC impairment”; however, under agency limiting Bradley’s interactions with regulations, a claimant has a “moderate” others, performing only simple tasks, in limitation if his “functioning . . . a simple work setting, and being off task independently, appropriately, effectively, no more than five percent of the time. 7 opined the claimant’s ability to In fact, the performance of these understand, retain, and follow brief, activities requires understanding, simple, concrete instructions without remembering, carrying out frequent repetition or reminders is instructions, and remaining on task. unimpaired.” (Tr. 25). Given that the See *Medina v. Comm’r of Soc. Sec.*, ALJ also limited Bradley to simple 831 F. App’x 35, 36 (2d Cir. 2020) tasks (Tr. 22), this opinion constitutes (unpublished) (affirming that substantial evidence supporting the activities such as driving, cleaning, ALJ’s conclusion that Bradley could doing laundry, cooking, and shopping understand, remember, and carry out tended to support a finding that the instructions for at least 95% of a claimant was capable of concentrating workday. and staying on task sufficiently to perform work activities). Nevertheless, the ALJ also pointed to evidence of Bradley’s wide array of C. The ALJ Accounted for Bradley’s daily activities to support her on task Mental and Physical Limitations in finding, such as playing bass guitar in Her Finding. a band, visiting friends, doing household chores (i.e., mopping, Regarding Bradley’s mental vacuuming, dusting, and occasional impairments of depression and yardwork), performing his full range anxiety, the ALJ also accurately of personal care, spending time with pointed out that he had not been his minor children, and occasionally hospitalized for a mental impairment going to church with his mother. (Tr. during the relevant period and that 21, 23, 45-46, 180, 183, 196-99, 662.) his depression improved with The ALJ also noted that Bradley treatment. (Tr. 21, 23-25, 43 drove, shopped for groceries, and (testifying that taking sertraline for prepared simple meals. (Tr. 23, 40, depression helped).) Additionally, 46, 181-82, 197-98.) At no point does Bradley’s mental status exams did not Bradley contest the ALJ’s reliance on document significant difficulties with this evidence, which supports the memory or concentration; he was able overall proposition that Bradley could to answer questions about his work understand, remember, and carry out and medical history, and he was instructions for at least 95% of a cooperative at his consultative and workday. medical appointments.4 (Tr. 21, 23- 25, 39-50, 187-202, 387, 443, 464, (Tr. 22.) Beyond challenging the off-task 4 For example, the ALJ pointed out that five percent limitation, Bradley does not findings from a September 2021 mental challenge any of these additional findings status exam indicated that his mood was or the ALJ’s analysis of the same. mildly anxious. (Tr. 23, 482.) His behavior was cooperative and pleasant. 8 468, 470, 472, 474, 476, 479, 482, running “a little high”), 524).) In 484, 530-32, 660-61, 787, 789, 792, September 2022, the ALJ further 811, 817, 821, 828, 833, 837-38.) observed, Bradley was hospitalized Again, this demonstrates that Bradley for two days for diabetes could understand,

remember, and complications. (Tr. 23, 780 carry out instructions for at least 95% (indicating that Bradley unhooked his of a workday. insulin pump after getting COVID, after which blood sugar went up).) Regarding Bradley's diabetes, the ALJ recognized that he had some periods Overall, however, the ALJ concluded of elevated blood sugar, but his that the evidence showed that symptoms stabilized with treatment. Bradley's symptoms were "stable with (Tr. 23-24.) For example, Bradley treatment" (Tr. 24), a finding that he sought emergency treatment for has not challenged and one consistent muscle aches and dizziness in with his testimony that he thought he December 2020 (before the alleged would be "able to keep [his diabetes] onset of disability), at which point his under control" (Tr. 41). Examinations blood sugar was very high, in the in April 2021 and August 2022 also 300s. (Tr. 23, 280-81) (describing reflected no neurological deficits (Tr. symptoms and noting that Bradley 23, 24, 441-43, 532), which is "fe[lt] much better after [receiving] inconsistent with complaints of nerve fluids," and requested to be pain and weakness (Tr. 23). For all of discharged).) And he had elevated these reasons, the record does not blood sugar in May 2022, but that was support Bradley's challenge to the because his insulin pump was kinked. ALJ's off task finding, a finding which (Tr. 23, 522 ("4 days go found his is legally correct, supported by pump was kinked after feeling substantial evidence, and susceptible poorly," then fixed it and sugars are to judicial review.⁵ (Tr. 23, 482.) His affect was appropriate. an August 2023 psychiatric exam were (Tr. 23, 482.) He was fully oriented. (Tr. unremarkable. (Tr. 24, 786-87.) 23, 482.) His thought process, thought content, perception, and insight were 5 Bradley does not challenge the ALJ's within normal limits. (Tr. 23, 482.) He assessment of his subjective complaints. denied suicidal ideation. (Tr. 23, 482.) However, even if he had, the challenge The ALJ further pointed out that during would fail. The ALJ completed the two- an October 2022 consultative evaluation step Craig analysis. To begin, the ALJ with Dr. Hatfield, Bradley's intellectual stated that she had carefully considered functioning was average to low average, the evidence and found that Bradley's his affect was mildly dysthymic, his mood "medically determinable impairments was "fairly good," and he denied suicidal could reasonably be expected to cause ideation. (Tr. 24, 663-64.) Findings from the alleged symptoms." (Tr. 24.) The ALJ therefore discharged her duty under the 9 ALJ found.⁶ See *Stitely v. Colvin*, No. Bradley's objections to the contrary 14-2302, 2015 WL 4621292, at *1 (4th are not persuasive. First, contrary to Cir. Aug. 4, 2015) ("[The claimant] his assertions, Docket Entry 9 at 13, points to no 'overlooked' evidence, the law does not require the ALJ to aside from his own allegations, which support an off-task limitation with a the court found not entirely credible, mathematical formula, a medical that would substantially aid his opinion, or to provide greater case."). Instead, Bradley contends specificity than otherwise required to that the evidence he summarizes in support the rest of the RFC his brief "could reasonably lead to the assessment. See *Welch v. Saul*, No. conclusion that [he] would be off-task 1:19-CV-189-DCK, 2020 WL 10% or more of the workday." Docket 4586882, at *8 (W.D.N.C. Aug. 10, Entry 9 at 13. But even assuming that 2020) (citing cases). to be the case, "[t]he substantial evidence standard 'presupposes . . . a

Second, Bradley does not point to any zone of choice within which the other evidence that would compel decisionmakers can go either way, greater limitations than those that the without interference by the courts. An first step of the Craig analysis. Then, at unemployable. (Tr. 24 (citing Tr. 333, step two, the ALJ decided that Bradley's 370-73, 377, 783).) The ALJ explained "statements concerning the intensity, that Dr. Gulley's opinions were persistence and limiting effects of these unpersuasive, given evidence that symptoms are not entirely consistent Bradley's symptoms were "stable with with the medical evidence and other treatment" and that he was "independent evidence in the record for the reasons with daily activities," and was able to do explained in this decision." (Tr. 24.) The chores, spend time with friends and his ALJ then gave numerous good reasons, children, and play bass guitar in a band. supported by substantial evidence and (Tr. 25.) Bradley also points to an August susceptible to judicial review, in support 2021 letter from his therapist stating that of this conclusion. he is disabled in light of his mental and physical health issues. Docket Entry 9 at 6 In fact, in support of his objection, 19, citing Tr. 455. However, the issue of Bradley points to evidence the ALJ disability is reserved to the considered, but then discounted, without Commissioner and such statements are directly challenging it. See, e.g., Docket "inherently neither valuable nor Entry 9 at 8-9. For example, the ALJ persuasive to the issue of whether [a considered medical opinions submitted claimant is] disabled" and do not require by Paul Gulley, M.D., Bradley's "any analysis . . . in [the] determination endocrinologist. (Tr. 24.) Among other or decision." 20 C.F.R. § 404.1520b(c). findings, Dr. Gulley opined that Bradley Bradley does not challenge the manner in could only work four hours per day until which the ALJ treated any opinions and August 2021 and previously found he was has thus waived an objection as to them. unable to work on certain days and was See Grayson O Co., 856 F.3d at 316. 10 administrative decision is not subject at 4-5, 12-17 and Docket Entry 13 at 2 to reversal merely because substantial (collecting cases). However, all of the evidence would have supported an cases Bradley cites in his favor opposite decision." *Dunn v. Colvin*, predate the Fourth Circuit's decision 607 F. App'x 264, 266 (4th Cir. 2015) in *Rebecca J.*, 2023 WL 3970022, at (unpublished) (internal quotation *3 (concluding that the ALJ built a and citation omitted). Here, the ALJ logical bridge between the pointed to more than substantial administrative record and her finding evidence showing why Bradley did not that plaintiff would be off task no suffer disabling limitations in more than 7% of the workday). understanding, remembering, following instructions, or staying on And, regardless of this, both before task. No more is required. and after the Fourth Circuit's holding in *Rebecca J.*, judges within this Third, Bradley identifies numerous district have supported such findings unpublished out of district cases that where—as here—it was supported by have remanded decisions where an substantial evidence and susceptible ALJ included a numerical off task to judicial review.⁷ estimation in the RFC. Docket Entry 9 7 See *April A. J. v. Bisignano*, No. (M.D.N.C. Sept. 10, 2020); *Megan M. v. 1:24CV672*, 2025 WL 2784211, at *4-7 *Berryhill*, No. 17cv1125, Slip Op. at 16-20 (M.D.N.C. Sept. 30, 2025) (upholding (M.D.N.C. Dec. 13, 2018) (affirming ALJ five percent off task

limitation); Dana D. decision with 5% off task limitation), v. Kijakazi, No. 1:20CV673, Slip Op. at recommendation adopted by Slip. Op. 14-15 (Oct. 26, 2021) (same) (Jan. 4, 2019); see also Horner v. Acting recommendation adopted by Slip Op. Comm’r of Soc. Sec. Admin., No. 9:17- (Nov. 15, 2021); Shaw, 2021 WL CV-00894-RBH, 2018 WL 4203675, at 3079905, at *8-10 (upholding ten- *7 (D.S.C. Sept. 4, 2018) (“Plaintiff states percent off task limitation in RFC that the ALJ never explained why he determination), report and decided to include within the RFC a recommendation adopted, 2021 WL limitation that Plaintiff would be ‘off 6202788; Link v. Saul, No. 1:19CV662, task’ up to five percent of the workday 2020 WL 5044038, at *9 (M.D.N.C. Aug. beyond normal breaks. Plaintiff argues it 26, 2020) (holding that ALJ’s findings at is ‘impossible’ to discern the basis of this step two, analysis of the plaintiff’s limitation. To the contrary, the ALJ subjective symptom reporting, and explained that, based upon the claimant’s evaluation of objective evidence allegations concerning her headache “adequately explained the RFC’s pain and its effects on her cognitive allowance for [the p]laintiff to remain functioning, the ALJ was including off-task for up to 10 percent of the mental limitations. The ALJ then workday in addition to normal breaks”), specifically cited to activities Plaintiff is recommendation adopted, slip op. able to perform, as well as the 11 Bradley’s efforts to distinguish Bradley has failed to challenge any of Rebecca J. are unpersuasive. Docket the ALJ’s findings in this case other Entry 13 at 3. The claimant’s challenge than the up to 5% off task finding and in Rebecca J. was unsuccessful has failed to point to evidence that because the record was “devoid of would compel a different outcome. sufficient evidence, including Thus, here, as in Rebecca J., the ALJ opinions and treatment notes, identified evidence supporting her demonstrating that Plaintiff would be conclusion on an off task limitation off task more than seven percent of and built a logical bridge from it to her the day” Rebecca J., 2023 WL conclusion that the claimant was not 3970022, at *3 (citation, quotation disabled. See Rebecca J., 2023 WL omitted). Bradley asserts that this is 3970022, at *3. not the case here, noting opinions issued by Dr. Paul Gulley (his Finally, the vocational expert testified endocrinologist) and Ms. Stacie at the administrative hearing that an Adams (his therapist) and suggesting inability to stay on task “10% or more that they show “he would be off-task of the workday” was work preclusive. in excess of the ALJ’s findings, (Tr. 55.) An individual could therefore rendering the ALJ’s decision be off task up to ten percent of the unsupported by substantial evidence workday and still maintain because the ALJ failed to explain how employment. (Tr. 54-55.) That the the ALJ arrived at the specific off-task ALJ appears to have given Plaintiff conclusions in the RFC.” Docket Entry the benefit of the doubt in concluding 13 at 3-4 referencing Tr. 333, 408-09, that his physical and mental 402, 455, 783. limitations could result in off-task behavior at most up to 5% of the However, the ALJ in this case workday—rather than zero percent or adequately supported her up to 5% off some other lesser amount—does not task finding by pointing to multiple provide a basis to remand given that lines of evidence (including objective such an estimate of off-task behavior medical evidence, treatment history, is not work preclusive. For all of these and daily activities), addressed the reasons, the

Commissioner's decision relevant medical opinions to the is affirmed. extent the law required (see supra n. 3 and 6), and left no material evidence unreconciled or unaddressed. Again, consultative psychological examination (unpublished) ("The ALJ applied the to find this specific limitation as it relates correct legal standards in evaluating to her headaches."), aff'd sub nom. Horner's claims for benefits, and the Horner v. Comm'r of Soc. Sec. Admin., ALJ's factual findings are supported by 809 F. App'x 165 (4th Cir. 2020) substantial evidence."). 12 V. CONCLUSION substantial evidence, and susceptible to judicial review. Accordingly, IT IS After careful consideration of the HEREBY ORDERED that the final evidence of record, the Court finds decision of the Commissioner is that the Commissioner's decision is upheld. legally correct, supported by J ab Gibson { cFadden United States Magistrate Judge 13