

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MAINE

Julie D. v. Frank Bisignano, Commissioner of Social Security

Julie D. · No. 1:24-cv-00445-KFW · Decided March 20, 2026

SUMMARY

The court vacated the Commissioner of Social Security’s denial of benefits and remanded the case for further proceedings. It held that, after finding the claimant required ready access to a bathroom because of irritable bowel syndrome and interstitial cystitis, the ALJ was required to make findings regarding the frequency and duration of bathroom breaks and reconcile those limitations with vocational-expert testimony concerning permissible off-task time.

CASE DETAILS

COURT	United States District Court for the District of Maine
WRITING FOR THE COURT	Karen Frink Wolf
JURISDICTION	United States District Court for the District of Maine
DECIDED	March 20, 2026
DOCKET	1:24-cv-00445-KFW
DISPOSITION	vacated
PROCEDURAL POSTURE	Social Security disability claimant sought judicial review of the Commissioner's final decision denying benefits after an administrative law judge found that she was not disabled. The court vacated the Commissioner's decision and remanded for further proceedings.
STANDARD OF REVIEW	The court reviewed whether the Commissioner's decision was based on the correct legal standards and supported by substantial evidence under 42 U.S.C. § 405(g). Findings supported by substantial evidence are conclusive, but findings are not conclusive when they result from ignoring evidence, misapplying the law, or judging matters entrusted to experts.
PRECEDENTIAL VALUE	unpublished
PARTIES	Julie D. v. Frank Bisignano, Commissioner of Social Security

TOPICS

- judicial review of agency action
- agency adjudication
- administrative law
- ada / disability

PRACTICE AREAS

Social Security

administrative law

disability benefits

judicial review of agency action

QUESTIONS PRESENTED

1. Whether the ALJ erred at Step 5 by finding that the Plaintiff could perform other work after imposing a bathroom-proximity limitation without making findings concerning the frequency and duration of necessary bathroom breaks.
2. Whether the ALJ's Step 5 finding was supported by substantial evidence when the ALJ did not reconcile the bathroom-break limitation with the vocational expert's testimony regarding employer tolerance for off-task time.

HOLDINGS

1. When an ALJ finds that a claimant's impairment requires ready access to a bathroom, the ALJ must make an affirmative finding concerning the amount of time the claimant would need to be away from the workstation for bathroom breaks.
2. The ALJ's Step 5 finding was unsupported by substantial evidence because the ALJ did not resolve whether the Plaintiff's bathroom breaks would exceed the amount of off-task time employers would tolerate.

KEY QUOTATIONS

“he nevertheless had an obligation to make “an affirmative, alternative finding as to how much time the [P]laintiff would need to be away from her work station for bathroom breaks” and to reconcile that amount of time with the VE’s testimony about how much time off-task employers would tolerate.” (Discussion)

“At bottom, the ALJ’s failure to resolve whether the Plaintiff’s bathroom breaks would exceed the amount of time off-task tolerated by employers leaves his Step 5 finding unsupported by substantial evidence and, therefore, remand is required.” (Conclusion)

FACTUAL BACKGROUND

The Plaintiff had severe impairments including fibromyalgia, depressive disorder, anxiety disorder, irritable bowel syndrome, interstitial cystitis, tachycardia, and a right shoulder condition. The ALJ limited her to light work with additional restrictions, including a requirement that she work within 100 feet of a bathroom. The Plaintiff and her treating gastroenterologist stated that she might need to use the bathroom as often as hourly for approximately fifteen minutes, and the vocational expert testified that being off task for a total of one hour during an eight-hour workday would preclude employment.

PROCEDURAL HISTORY

The Plaintiff applied for benefits in 2019. After denial at the initial and reconsideration levels, she received a hearing before an ALJ in March 2023. The ALJ found several severe impairments, including IBS and interstitial cystitis, assessed an RFC requiring work within 100 feet of a bathroom, and found that she could perform other work existing in significant numbers. The Appeals Council denied review, making the ALJ's decision the

Commissioner's final decision. The district court concluded that the Step 5 finding was unsupported by substantial evidence because the ALJ did not determine the frequency and duration of bathroom breaks or reconcile those breaks with the vocational expert's off-task testimony.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The Commissioner must conduct further proceedings consistent with the decision, including determining the frequency and duration of the Plaintiff's necessary bathroom breaks and reconciling the resulting off-task time with the vocational expert's testimony and the Step 5 determination.

CASES CITED

- Seavey v. Barnhart, 276 F.3d 1, 9 (1st Cir. 2001)
- Biestek v. Berryhill, 587 U.S. 97, 102-03 (2019)
- Irlanda Ortiz v. Secretary of Health & Human Services, 955 F.2d 765, 769 (1st Cir. 1991)
- Nguyen v. Chater, 172 F.3d 31, 35 (1st Cir. 1999)
- Hall-Grover v. Barnhart, No. 03-239-P-C, 2004 WL 1529283, at *3-5 (D. Me. Apr. 30, 2004) (rec. dec.), aff'd, ECF No. 10 (D. Me. May 24, 2004)
- Binder v. Colvin, No. 5:12-CV-271-D, 2013 WL 1686306, at *3 (E.D.N.C. Mar. 21, 2013) (rec. dec.), aff'd, 2013 WL 1694678 (E.D.N.C. Apr. 18, 2013)
- Taylor v. Astrue, No. 7:11-CV-162-FL, 2012 WL 3637254, at *11 (E.D.N.C. Aug. 1, 2012) (rec. dec.), aff'd, 2012 WL 3639623 (E.D.N.C. Aug. 22, 2012)
- Davis v. Commissioner of Social Security, No. 2:10-CV-30, 2011 WL 442118, at *1 (N.D. W. Va. Feb. 2, 2011)
- Brueggen v. Barnhart, No. 06-C-0154-C, 2006 WL 5999614, at *7 (W.D. Wisc. Dec. 15, 2006) (rec. dec.), aff'd, 2007 U.S. Dist. LEXIS 2476 (W.D. Wisc. Jan. 8, 2007)
- Bowen v. Yuckert, 482 U.S. 137, 146 n.5 (1987)
- Dussault v. Astrue, 674 F. Supp. 2d 337, 345 (D. Mass. 2009)
- King v. Colvin, No. 14-cv-11157, 2015 WL 1130586, at *9 (E.D. Mich. Mar. 12, 2015)
- Teresa A. M. v. Saul, No. 2:19-cv-00292-LEW, 2020 WL 2850224, at *8-9 (D. Me. June 1, 2020) (rec. dec.), aff'd, D. Me. June 13, 2020

OPINION

UNITED STATES DISTRICT COURT DISTRICT OF MAINE JULIE D.,)) Plaintiff)) v.) No. 1:24-cv-00445-KFW) FRANK BISIGNANO,) Commissioner of) Social Security,)) Defendant) MEMORANDUM DECISION1 The Plaintiff in this Social Security Disability appeal argues that the Administrative Law Judge (ALJ) committed reversible error by failing to make findings about

the time she would be off task at work because of her irritable bowel syndrome (IBS) and interstitial cystitis.

See Plaintiff's Brief (ECF No. 10). I agree and vacate the Commissioner's decision and remand this case for further proceedings consistent with this decision. I. Background The Plaintiff applied for benefits in 2019. See Record at 18.

After her claim was denied at the initial and reconsideration levels of review, the Plaintiff requested a hearing before an ALJ. See *id.* That hearing took place in March 2023, following which the ALJ issued a decision finding that the Plaintiff had the severe impairments 1 The parties have consented to me presiding over all proceedings in this action including the entry of judgment.

See ECF No. 7. of fibromyalgia, depressive disorder, anxiety disorder, IBS, interstitial cystitis, tachycardia, and status post right shoulder injury/osteoarthritis. See *id.* at 18, 21. Considering those impairments, the ALJ determined that the Plaintiff had the residual functional capacity (RFC) to perform light work as defined in 20 C.F.R. § 404.1567(b) with various additional limitations, including that she must work within one hundred feet of a bathroom throughout the workday.

See Record at 24. The ALJ determined that, although the Plaintiff could not perform any of her past relevant work with such an RFC, she could perform other jobs existing in significant numbers in the national economy and was, therefore, not disabled. See *id.* at 32-34.

The Appeals Council denied the Plaintiff's request to review the ALJ's decision, see *id.* at 1-4, making that decision the final determination of the Commissioner, see 20 C.F.R. § 404.981. II. Standard of Review A final decision of the Commissioner is subject to judicial review to determine whether it is based on the correct legal standards and supported by substantial evidence.

See 42 U.S.C. § 405(g); *Seavey v. Barnhart*, 276 F.3d 1, 9 (1st Cir. 2001). Substantial evidence in this context means evidence in the administrative record that a reasonable mind could accept as adequate to support an ALJ's findings. See *Biestek v. Berryhill*, 587 U.S. 97, 102-03 (2019). If an ALJ's findings are supported by substantial evidence, they are conclusive even if the record could arguably support a different result.

See *Irlanda Ortiz v. Sec'y of Health & Hum. Servs.*, 955 F.2d 765, 769 (1st Cir. 1991). But an ALJ's findings "are not conclusive when derived by ignoring evidence, misapplying the law, or judging matters entrusted to experts." *Nguyen v. Chater*, 172 F.3d 31, 35 (1st Cir. 1999). III. Discussion The Plaintiff takes issue with the ALJ's handling of the limitations stemming from her IBS and interstitial cystitis².

See generally Plaintiff's Brief. She argues, among other things, that the ALJ was required to make findings about the frequency of her need to use the bathroom after finding that her IBS and

interstitial cystitis symptoms required her to work within one hundred feet of a bathroom. *Id.* at 7 (citing *Hall-Grover v. Barnhart*, No. 03-239-P-C, 2004 WL 1529283, at *3 (D.

Me. Apr. 30, 2004) (rec. dec.), *aff'd*, ECF No. 10 (D. Me. May 24, 2004)). In making this argument, she also takes issue with the ALJ's rejection of her testimony—and a statement by her treating gastroenterologist—that she needs to use the bathroom up to hourly for fifteen minutes at a time, see *id.* at 4-8, which the vocational expert (VE) testified would preclude all employment, see Record at 70.

The Commissioner counters that the “fact that the ALJ acknowledged that IBS” and interstitial cystitis “created some degree of restriction did not require h[im] to accept Plaintiff's professed degree of limitation.” Commissioner's Brief (ECF No. 11) at 5-6 (quoting *King v. Colvin*, No. 14-cv-11157, 2015 WL 1130586, at *9 (E.D. Mich. Mar. 12, 2015)).

The Commissioner further argues that substantial evidence supports the ALJ's rejection of the Plaintiff's and her gastroenterologist's 2 “Interstitial cystitis... is a condition that causes pain in the bladder and a need to urinate frequently and urgently.” Interstitial Cystitis, MedlinePlus, <https://medlineplus.gov/interstitialcystitis.html> (last updated December 6, 2025). statements about the frequency with which she would need to use the bathroom, and that the Plaintiff did not meet her burden of proving additional limitations beyond her need for bathroom proximity.

Id. at 6-8. The Plaintiff has the better argument. In limiting the Plaintiff to work within one hundred feet of a bathroom, the ALJ accepted that the Plaintiff would need ready access to a bathroom because of her IBS and interstitial cystitis symptoms. While the ALJ was certainly not required to accept the Plaintiff's and her gastroenterologist's statements about the frequency and duration of her bathroom use, he nevertheless had an obligation to make “an affirmative, alternative finding as to how much time the [P]laintiff would need to be away from her work station for bathroom breaks” and to reconcile that amount of time with the VE's testimony about how much time off-task employers would tolerate.³ *Hall-Grover*, 2004 WL 1529283, at *3; see also *Binder v. Colvin*, No. 5:12-CV-271-D, 2013 WL 1686306, at *3 (E.D.N.C.

Mar. 21, 2013) (rec. dec.) (“When an ALJ finds that a claimant has an impairment that requires [her] to have access to a bathroom, the ALJ should make specific findings concerning the frequency and duration of [the claimant's] bathroom usage.”), *aff'd*, 2013 WL 1694678 (E.D.N.C. Apr. 18, 2013); *Taylor v. Astrue*, No. 7:11-CV-162-FL, 2012 WL 3637254, at *11 (E.D.N.C.

Aug. 1, 2012) (rec. dec.) (“While the court finds the ALJ's credibility determination with respect to Claimant's allegations of excessive bathroom breaks supported by substantial evidence, the ALJ nevertheless failed to address the VE's 3 The VE here testified that employers would tolerate an employee being off task a total of one hour during an eight-hour workday.

See Record at 70. testimony that a person needing to take an excessive number of unscheduled bathroom breaks has the potential to be problematic. Given the ALJ made no findings regarding to what extent Claimant required unscheduled bathroom breaks, nor question[ed] the VE as to his definition of excessive, there is simply no way to conclude, in light of the VE's testimony, that the ALJ's step-four finding is supported by substantial evidence." (cleaned up)), aff'd, 2012 WL 3639623 (E.D.N.C.

Aug. 22, 2012); *Davis v. Comm'r of Soc. Sec.*, No. 2:10-CV-30, 2011 WL 442118, at *1 (N.D. W. Va. Feb. 2, 2011) ("[W]hen a claimant has a specific need to have a bathroom at ready access, the ALJ should make specific findings regarding the frequency and duration of necessary usage and include such findings in the claimant's residual functional capacity."); *Brueggen v. Barnhart*, No. 06-C-0154-C, 2006 WL 5999614, at *7 (W.D.

Wisc. Dec. 15, 2006) (rec. dec.) (remanding for an ALJ to "make a specific finding concerning the frequency and duration of plaintiff's bathroom usage" where the ALJ failed to explain "how she reconciled plaintiff's need to use the bathroom at will with the VE's testimony concerning the degree to which such bathroom use is generally tolerated by employers"), aff'd, 2007 U.S. Dist.

LEXIS 2476 (W.D. Wisc. Jan. 8, 2007). The Commissioner argues that it would be unreasonable to require the ALJ to make an affirmative finding about the frequency and duration of the Plaintiff's bathroom breaks where there is no specific evidence on that issue apart from the evidence the ALJ supportably discounted. See Commissioner's Brief at 5-6. But this argument ignores the ALJ's Step 5 burden to assess the vocational impact of the bathroom proximity limitation he found was warranted by the evidence, see *Bowen v. Yuckert*, 482 U.S. 137, 146 n.5 (1987), and it overstates the complexity of assessing the frequency and duration of bathroom breaks in the absence of specific evidence, see, e.g., *Dussault v. Astrue*, 674 F. Supp. 2d 337, 345 (D.

Mass. 2009) (a case cited by the Commissioner holding that an ALJ permissibly "used his common sense" when making findings about the duration of bathroom breaks for a claimant with IBS where there was no specific evidence on the issue). At bottom, the ALJ's failure to resolve whether the Plaintiff's bathroom breaks would exceed the amount of time off-task tolerated by employers leaves his Step 5 finding unsupported by substantial evidence and, therefore, remand is required.

See *Hall-Grover*, 2004 WL 1529283, at *3-5.4 IV. Conclusion For the foregoing reasons, the Commissioner's decision is VACATED and the case REMANDED for proceedings consistent with this decision. Dated: March 20, 2026 /s/ Karen Frink Wolf United States Magistrate Judge 4 The Commissioner cites two cases for the proposition that an ALJ may impose a bathroom proximity limitation without making additional findings about the frequency and duration of bathroom breaks, see Commissioner's Brief at 6-8, but I am not swayed by either.

To the extent King, 2015 WL 1130586, at *9, squarely addressed this issue, it is against the weight of authority from this Court and others. And although *Teresa A. M. v. Saul*, No. 2:19-cv-00292-LEW, 2020 WL 2850224, at *8-9 (D. Me. June 1, 2020) (rec. dec.), aff'd, (D. Me. June 13, 2020), affirmed an ALJ's bathroom proximity limitation without corresponding frequency and duration findings, the limitation was discussed only in the context of an ALJ's weighing of a medical opinion and no reference was made to Hall-Grover or other similar cases.

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