

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NEW YORK

Kiersten D. v. Commissioner of Social Security

No. 23-CV-00588-MJR (W.D.N.Y. Feb. 17, 2026) · No. 23-CV-00588-MJR · Decided February 17, 2026

SUMMARY

The United States District Court for the Western District of New York reviewed the denial of Kiersten D.’s applications for Supplemental Security Income and Childhood Disability Benefits. The court granted Plaintiff’s motion for judgment on the pleadings and remanded the matter because the Administrative Law Judge provided no evidentiary explanation for assigning a specific nine-percent off-task limitation, contrary to the treating physician’s opinion that Plaintiff would be off task more than ten percent of the workday. The court also directed consideration on remand of Plaintiff’s arguments concerning absenteeism and the characterization of the evidence.

CASE DETAILS

COURT	United States District Court for the Western District of New York
JURISDICTION	United States District Court for the Western District of New York
DECIDED	February 17, 2026
DOCKET	23-CV-00588-MJR
DISPOSITION	remanded
PROCEDURAL POSTURE	Plaintiff sought judicial review under 42 U.S.C. §§ 405(g) and 1383(c) (3) of the Commissioner's final decision denying Supplemental Security Income and Childhood Disability Benefits. Both parties moved for judgment on the pleadings under Federal Rule of Civil Procedure 12(c).
STANDARD OF REVIEW	The court reviewed the Commissioner's factual findings for substantial evidence and reviewed whether the correct legal standards were applied. The court stated that failure to apply the correct legal standard is reversible error.
PRECEDENTIAL VALUE	unpublished
PARTIES	Kiersten D. v. Commissioner of Social Security

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the ALJ's unexplained nine-percent off-task limitation in Plaintiff's residual functional capacity assessment was supported by substantial evidence.
2. Whether the unexplained off-task limitation was harmless when the vocational expert testified that a ten-percent limitation would preclude competitive employment.

HOLDINGS

1. The ALJ erred by substituting an unexplained nine-percent off-task limitation for the treating physician's opinion that Plaintiff would be off task more than ten percent of the workday. A highly specific residual functional capacity limitation must be supported by evidence in the record rather than the ALJ's own surmise.
2. The RFC error was not harmless because the vocational expert testified that a ten-percent off-task limitation would preclude competitive employment.

KEY QUOTATIONS

"The ALJ offered no explanation for her 9% limitation as opposed to Dr. Aziz's 10% limitation, and there is nothing in the record to support the ALJ's finding that Plaintiff would be off-task exactly 9% of the time, rather than some greater duration as Dr. Aziz opined." (8)

"This error was not harmless because the VE testified that a 10% off-task limitation would preclude competitive employment." (9)

FACTUAL BACKGROUND

Plaintiff protectively filed for SSI and CDB benefits, alleging disability based primarily on psoriatic arthritis and Raynaud's Syndrome, along with asthma, obesity, depression, and anxiety. The ALJ found that Plaintiff had no past relevant work but retained the residual functional capacity for a restricted range of light work, including being off task for nine percent of the workday. Plaintiff's treating rheumatologist opined that her impairments would cause her to be off task more than ten percent of the workday. The vocational expert testified that a ten-percent off-task limitation would preclude competitive employment.

PROCEDURAL HISTORY

Plaintiff applied for SSI and CDB benefits, and the applications were denied initially and on reconsideration. After a telephonic hearing, the ALJ found Plaintiff not disabled. The Appeals Council denied review, making the ALJ's decision the Commissioner's final decision. The district court granted Plaintiff's motion for judgment on the pleadings, denied the Commissioner's motion, and remanded the case.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The case was remanded for further proceedings. The Commissioner was directed to consider Plaintiff's arguments concerning an absenteeism limitation and alleged mischaracterization of the evidence, in addition to properly explaining and supporting any specific off-task limitation.

CASES CITED

- Richardson v. Perales, 402 U.S. 389, 401 (1971)
- Smith v. Colvin, 17 F. Supp. 3d 260, 264 (W.D.N.Y. 2014)
- Veino v. Barnhart, 312 F.3d 578, 586, 588 (2d Cir. 2002)
- Silvers v. Colvin, 67 F. Supp. 3d 570, 574 (W.D.N.Y. 2014)
- Sample v. Schweiker, 694 F.2d 639, 642 (9th Cir. 1982)
- Carroll v. Secretary of Health & Human Services, 705 F.2d 638, 642 (2d Cir. 1983)
- Kohler v. Astrue, 546 F.3d 260, 265 (2d Cir. 2008)
- Dumas v. Schweiker, 712 F.2d 1545, 1550 (2d Cir. 1983)
- Miles v. Harris, 645 F.2d 122, 124 (2d Cir. 1981)
- Cheek v. Commissioner of Social Security, No. 1:18-CV-01455 EAW, 2020 U.S. Dist. LEXIS 74544, at *13 (W.D.N.Y. Apr. 28, 2020)
- Cosnyka v. Colvin, 576 F. App'x 43, 46 (2d Cir. 2014)
- Heckman v. Commissioner, No. 18-CV-6032, 2019 U.S. Dist. LEXIS 58447, 2019 WL 1492868, at *3 (W.D.N.Y. Apr. 4, 2019)
- Goldthrite v. Astrue, 535 F. Supp. 2d 329, 339 (W.D.N.Y. 2008)
- Martia P. v. Commissioner of Social Security, No. 1:20-CV-560-DB, 2021 U.S. Dist. LEXIS 108323, at *10 (W.D.N.Y. June 9, 2021)
- Jacqueline R. v. Commissioner of Social Security, No. 1:21-cv-00097-EAW, 2023 U.S. Dist. LEXIS 116022, at *7 (W.D.N.Y. July 6, 2023)
- Elder v. Commissioner of Social Security, No. 18-CV-1196, 2019 U.S. Dist. LEXIS 205159, at 14-15 (W.D.N.Y. Nov. 26, 2019)