

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT
SUMMARY ORDER**

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 18th day of September, two thousand twenty-six.

Present:

JOHN M. WALKER, JR.,
MICHAEL H. PARK,
Circuit Judges,
PHILIP M. HALPERN,*
District Judge.

BRIANNA JIMENEZ,

Plaintiff-Appellant,

25-2374

v.

FRANK BISIGNANO, Commissioner of Social
Security,

Defendant-Appellee.

FOR PLAINTIFF-APPELLANT:

MARK SCHNEIDER, Plattsburgh, NY.

* Judge Philip M. Halpern, of the United States District Court for the Southern District of New York, sitting by designation.

FOR DEFENDANT-APPELLEE:

MOLLY C. CARTER, Special Assistant U.S. Attorney (Michael J. Pelgro, Head of Program Litigation 2, Social Security Administration Law & Policy, Todd Blanche, Deputy Attorney General, *on the brief*), for John A. Sarcone III, Acting U.S. Attorney for the Northern District of New York.

Appeal from a judgment of the United States District Court for the Northern District of New York (Stewart, *M.J.*).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the district court’s September 29, 2025 judgment is **AFFIRMED**.

Plaintiff-Appellant Brianna Jimenez appeals from a judgment of the United States District Court for the Northern District of New York affirming the denial by the Commissioner of Social Security of disability benefits for the period beginning September 26, 2019. On appeal, Jimenez argues that the Administrative Law Judge’s (ALJ’s) decision to deny her disability benefits was not supported by substantial evidence. Specifically, she challenges the ALJ’s conclusions that her impairments did not satisfy a mental-disorder listing, that she retained the residual functional capacity (“RFC”) to perform a reduced range of work, and that certain medical and non-medical opinions were more persuasive than others. We assume the parties’ familiarity with the underlying facts, the procedural history of the case, and the issues on appeal.

I. Standard of Review

“On an appeal from the denial of disability benefits, we focus on the administrative ruling rather than the district court’s opinion.” *Schillo v. Kijakazi*, 31 F.4th 64, 74 (2d Cir. 2022) (citation omitted). “The findings of the Commissioner of Social Security as to any fact, if supported by substantial evidence, shall be conclusive.” 42 U.S.C. § 405(g). So we “conduct a plenary review of the administrative record to determine if there is substantial evidence,

considering the record as a whole, to support the Commissioner’s decision.” *Schillo*, 31 F.4th at 74 (quotation marks omitted). “Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Id.* (cleaned up). This standard is “very deferential,” “even more so than the ‘clearly erroneous’ standard.” *Id.* (quotation marks omitted). “In our review, we defer to the Commissioner’s resolution of conflicting evidence.” *Cage v. Comm’r of Soc. Sec.*, 692 F.3d 118, 122 (2d Cir. 2012).

II. Mental Disorder Listings

Jimenez challenges the ALJ’s failure to obtain an updated consultative examination and the ALJ’s conclusion that her impairments did not meet or medically equal a mental-disorder listing for per se disability.

A. Updated Consultative Examination

In September 2019, Dr. Cordero-Soto performed a consultative examination of Jimenez in connection with her redetermination. Jimenez maintains that, before issuing his 2024 decision, the ALJ was required to obtain an updated examination, arguing that an ALJ is required to order a consultative examination “where the record establishes that such an examination is necessary to enable the ALJ to render a decision.” *Hughes v. Apfel*, 992 F. Supp. 243, 248 (W.D.N.Y. 1997). But the regulation provides that the Commissioner “may ask” a claimant to undergo an examination when the existing medical evidence is insufficient to determine disability. 20 C.F.R. § 416.917. So “an ALJ is not required to order a consultative examination if the facts do not warrant or suggest the need for it.” *Tankisi v. Comm’r of Soc. Sec.*, 521 F. App’x 29, 32 (2d Cir. 2013) (summary order).

The record here was sufficient to permit the ALJ to assess Jimenez’s medical impairments without another examination. Unlike *Hughes*, the record already contained a psychological

consultative examination, conducted during the relevant time period—in 2019 when Jimenez turned eighteen. It also contained mental-health treatment records from 2019 to 2020, acute treatment records from 2020 and 2021, and mental-health treatment records from 2022 into 2024. The ALJ thus had an extensive longitudinal medical record from which to assess Jimenez’s disability.

B. Listings

Jimenez argues that her impairments satisfied at least one of Listings 12.04 (depressive and bipolar disorders), 12.05 (intellectual disorder), 12.06 (anxiety and obsessive-compulsive disorders), 12.10 (autism spectrum disorder), or 12.11 (neurodevelopmental disorders). She thus contends that the ALJ erred by not finding her disabled per se. Each of these listings requires, among other things,

[s]ignificant deficits in adaptive functioning currently manifested by extreme limitation of one, or more marked limitation of two, of the following areas of mental functioning:

- (a) Understand, remember, or apply information; or
- (b) Interact with others; or
- (c) Concentrate, persist, or maintain pace; or
- (d) Adapt or manage oneself.

20 C.F.R. Pt. 404, Subpt. P, App’x 1, § 12.05(B). A “moderate limitation” means that the claimant’s ability to function in the relevant area “independently, appropriately, effectively and on a sustained basis is fair”; a “marked limitation” means that ability is “seriously limited”; and an “extreme limitation” means that the claimant is “not able to function in th[e] area independently appropriately, effectively, and on a sustained basis.” *Id.* § 12.00(F)(2). We conclude that substantial evidence supports the ALJ’s finding that Jimenez had no more than a moderate limitation in each of the four areas of mental functioning.

The ALJ acknowledged Jimenez's reported difficulties understanding information, managing money, performing math, maintaining focus, interacting with others, and managing herself. But he also relied on evidence that she lived independently with her husband, studied for her GED, cared for pets, attended appointments alone, performed household chores, used a computer and social media, socialized with her husband and his friends, worked at times, and drove. Those activities supported the ALJ's assessment across the four functional areas.

So did medical evidence. The many mental-status examinations describing Jimenez's recent and distant memory as intact and her thought processes as logical and coherent support the moderate limitation in understanding, remembering, or applying information. Although some examinations showed mildly to moderately impaired concentration, others finding adequate or intact attention and concentration support a moderate limitation for concentrating, persisting, or maintaining pace. And examinations reflecting good grooming, eye contact, cooperative behavior, euthymic mood and affect, and generally adequate insight and judgment support the ALJ's moderate ratings for interacting with others and adapting or managing oneself.

To be sure, Jimenez identifies evidence that could support greater limitations, particularly her low IQ and processing-speed scores. But she does not meaningfully dispute all the evidence supporting the ALJ's findings of only moderate limitations. Because we find that evidence substantial, the ALJ did not err in concluding that she failed to satisfy the relevant listings.

III. Residual Functional Capacity Determination

Jimenez challenges the ALJ's RFC determination on the grounds that the ALJ failed to account for limitations attributable to her epilepsy and migraine headaches and that he failed to make an express finding regarding time off task. An ALJ is "entitled to weigh all of the evidence available to make an RFC finding that is consistent with the record as a whole," and its conclusion

“need not perfectly match any single medical opinion in the record.” *Schillo*, 31 F.4th at 78 (cleaned up); *see also Matta v. Astrue*, 508 F. App’x 53, 56 (2d Cir. 2013) (summary order) (explaining that an ALJ’s conclusions need not “perfectly correspond with any of the opinions of medical sources cited in his decision”).

A. Epilepsy and Migraine Limitations

The ALJ found that Jimenez had severe impairments of seizure disorder and headaches. Jimenez contends that the ALJ should have characterized those impairments as epilepsy and migraine headaches and that he thus failed to account for the resulting pain, fatigue, and time off task in the RFC.¹

But as the district court explained, the ALJ’s use of the broader diagnoses of seizure disorder and headaches did not prevent him from considering limitations attributable to epilepsy and migraines in assessing the RFC. Rather, “any limitations arising from [Jimenez’s] epilepsy and migraine headaches were clearly subsumed within another documented and identified severe impairment.” *Brianna J. v. Comm’r of Soc. Sec.*, No. 24-cv-1016, 2025 WL 2771683, at *5 (N.D.N.Y. Sept. 29, 2025). And Jimenez does not explain why the pain, fatigue, or distraction allegedly caused by her epilepsy and migraines was not accounted for by the ALJ’s assessment of her seizure disorder and headaches. Indeed, the RFC restricted climbing ladders, ropes, or scaffolds; commercial driving; work in more than moderate noise; and exposure to hazardous machinery and unprotected heights.

In any event, the ALJ separately concluded that the record did not support further limitations. And substantial evidence supports that conclusion. As to Jimenez’s migraines, the

¹ Jimenez also states in a heading in her brief that the ALJ failed to include RFC limitations attributable to her narcolepsy and morbid obesity. But she does not develop that argument or identify any additional limitation that either condition required.

ALJ acknowledged her diagnosis but pointed out that her neurologist characterized the headaches as not intractable; the ALJ nevertheless included noise and environmental restrictions in the RFC. As to her seizures, the ALJ concluded that the record did not support the frequency or severity Jimenez alleged: she reported that she had not experienced a seizure since age five, and she was also able to drive.

B. Time Off Task

A vocational expert testified that if Jimenez were off task more than 15% of the workday or had two unexcused absences per month, she could not maintain employment. The ALJ made no express finding as to how much time Jimenez would be off task or how frequently she would be absent. Relying on *Nunez v. Comm’r of Soc. Sec.*, 164 F.4th 60, 71 (2d Cir. 2025), Jimenez argues for a categorical rule that we must remand when an ALJ does not make an express time-off-task finding.

Such a rule would be inconsistent with *Nunez*. There, a vocational expert testified that the claimant could not maintain employment if he were off task more than 10% of the workday or absent more than one day per month—and the ALJ made no *express* finding on either issue. *See id.* at 71. But we did not stop there: “[e]ven if an ALJ’s reasoning is opaque, we typically do not remand if the evidence of record permits us to glean the rationale of an ALJ’s decision.” *Id.* (internal quotation marks omitted). We thus reviewed the entire record and determined that we could not “find *any* justification for the ALJ’s . . . *implicit* conclusion that [the claimant] would not be off task more than 10% of the workday or miss more than one day of work per month.” *Id.* (emphasis added).

The same inquiry applies here. We must determine whether substantial evidence supports the ALJ’s *implicit* conclusion that Jimenez would not be off task more than 15% of the workday

or absent more than two days per month. It does. Dr. Culpepper rated Jimenez's difficulties in concentrating, persisting, or maintaining pace as moderate and concluded that, despite those limitations, she "should be able to complete simple tasks in at least 2-hour intervals over a 6–8 hour period [within] physical tolerances." Admin. R. at 683. No medical source opined that she would be off task or absent to any particular degree. Consistent with Dr. Culpepper's assessment, the ALJ limited Jimenez's RFC to work involving simple instructions, simple decisions, no specific production rate or hourly quotas, no tandem work, and only occasional interaction with coworkers and supervisors. Particularly given Dr. Culpepper's opinion, there is substantial evidence that, while performing work within those limitations, Jimenez would not be off task more than 15% of the workday or absent more than two days per month.

IV. Weighing of Opinions

Finally, Jimenez challenges the ALJ's weighing of several medical and non-medical opinions, as well as statements from Jimenez and her mother.

A. Medical and Non-Medical Opinions

In evaluating medical opinions, an ALJ considers several factors, the two "most important" being "(1) supportability, i.e., how well the objective medical evidence and explanations given support the medical source's conclusions; and (2) consistency, i.e., how consistent the opinion is with the rest of the record." *Nunez*, 164 F.4th at 73 (citing 20 C.F.R. § 404.1520c(a), (c)(1)–(2)).

Jimenez first argues that the ALJ improperly gave too much weight to the "stale and outdated" 2019 reports of Dr. Grubbs and Dr. Culpepper. But there is no "unqualified rule that a medical opinion is superseded by additional material in the record." *Camille v. Colvin*, 652 F. App'x 25, 28 n.4 (2d Cir. 2016) (summary order). And Jimenez does not specify any particular portion of their reports that is not supported by or consistent with earlier or later evidence.

Jimenez likewise identifies no medical opinion from Dr. Sanz that the ALJ failed to evaluate. To the extent she relies on entries in Dr. Sanz’s treatment notes, we agree with the district court that those entries “do not qualify as medical opinions” because they reflect a report of Jimenez’s “own beliefs about her functional abilities, while Dr. Sanz’s examination findings and conclusions about [her] functioning are addressed in separate sections.” *Brianna J.*, 2025 WL 2771683, at *6. They thus did not warrant the same articulation of reasons required for medical opinions. *See* 20 C.F.R. § 416.920c(d).

The same is true of the questionnaire completed by Jimenez’s teacher, Shannon Woodward, a non-medical source. The ALJ nevertheless considered the questionnaire and found it partially persuasive; indeed, in some areas, he assessed Jimenez as having *greater* limitations than Ms. Woodward reported. Jimenez does not identify any additional RFC limitation Ms. Woodward’s assessment required.

Dr. Loret de Mola-Roy’s evaluation—which found that Jimenez had a processing speed score of 65 and diagnosed her with ADHD, phonological and mathematics disorders, and borderline intellectual functioning—occurred in 2016, approximately three years before the relevant adult period and while Jimenez was still receiving disability benefits as a child. Although relevant to the history of her cognitive impairments, the evaluation was less relevant to her functional limitations during the adult period. *See* 20 C.F.R. § 416.912(b)(1) (explaining that, before making a disability determination, the agency “will develop your complete medical history for at least *the 12 months preceding the month* in which” the application is filed); *Simpson v. Comm’r of Soc. Sec.*, No. 24-1104, 2025 WL 1156973, at *2 (2d Cir. Apr. 21, 2025) (summary order) (finding no error when ALJ did not consider a “treatment note . . . dated four-and-a-half years before the onset date in this case”).

Finally, substantial evidence supports the ALJ's decision to find portions of Dr. Cordero-Soto's assessment unpersuasive. As for supportability, the ALJ acknowledged Jimenez's borderline-range IQ scores but concluded that Dr. Cordero-Soto's assessment of moderate-to-severe impairment was not "supported by the thorough mental status evaluation performed." That examination showed, among other things, that Jimenez was appropriately dressed and groomed, had good hygiene, held good eye contact, was oriented to time and place, had a neutral mood and congruent affect, had a cooperative and compliant attitude, and demonstrated good attention and concentration. As for consistency, the ALJ explained that Dr. Cordero-Soto's more severe assessment was inconsistent with other providers' opinions, which found her memory within normal limits, cooperative behavior, and appropriate and logical thought content. The ALJ also found that Dr. Cordero-Soto's assessment was inconsistent with Jimenez's daily activities, including working, studying for her GED, attending appointments alone, performing household chores, and driving. The ALJ thus properly considered both supportability and consistency, and substantial evidence supports his assessment.

B. Jimenez's and Her Mother's Statements

An ALJ "is not required to accept the claimant's subjective complaints without question" and "may exercise discretion in weighing the credibility of the claimant's testimony in light of the other evidence in the record." *Genier v. Astrue*, 606 F.3d 46, 49 (2d Cir. 2010). That "credibility determination is generally entitled to deference on appeal." *Selian v. Astrue*, 708 F.3d 409, 420 (2d Cir. 2013).

Substantial evidence supports the ALJ's assessment of Jimenez's statements. As to her neurological symptoms, the ALJ acknowledged that an EEG was consistent with her history of epilepsy but found that the record did not support the frequency of seizures she alleged, noting that

Jimenez reported having no seizure since age five. As to her mental health, the ALJ acknowledged instances of acute treatment in 2020 and 2021 but also noted that treatment notes otherwise indicated she was doing “okay” and that medication improved or controlled her symptoms. The ALJ further relied on Jimenez’s daily activities—including some working, studying for her GED, caring for pets, attending appointments, performing household chores, attending to personal care, using social media, swimming, and driving—as inconsistent with the severity of impairment she alleged.

Substantial evidence likewise supports the ALJ’s assessment of Jimenez’s mother’s statements. The ALJ found that some of the mother’s descriptions of Jimenez’s limitations were not fully consistent with medical evidence, treatment records, and Jimenez’s daily activities. Contrary to Jimenez’s characterization, the ALJ did not discount those statements solely because her mother was not a disinterested party.

* * *

We conclude that the ALJ’s decision was supported by substantial evidence. We have considered Jimenez’s remaining arguments and find them to be without merit. For the foregoing reasons, we **AFFIRM** the district court’s September 29, 2025 judgment.

FOR THE COURT:
Catherine O’Hagan Wolfe, Clerk of Court