May 15, 2025

Appeals Council
Office of Appellate Operations
6401 Security Blvd
Baltimore, MD 21235-6401

Claimant: John Smith
SS#: 123-45-6789
Type of Claim: Title XVI

Request for Review of Prior Disability Determination

Please accept this letter as a formal request for review of the prior Administrative Law Judge decision rendered on March 20, 2025. Mr. Smith requests that the prior decision be vacated and that a favorable decision be rendered on the current record. Alternatively, Mr. Smith requests that his case be remanded for resolution of the issues raised below.

Introduction

Mr. Smith is a 29-year-old male. He does not possess any past relevant work.

On April 13, 2022, Mr. Smith protectively filed an application for Title XVI disability benefits alleging an onset of disability on April 13, 2022.

Argument

Mr. Smith was found to have the following severe impairments: autism, anxiety, attention deficit hyperactivity disorder (ADHD), obsessive-compulsive disorder (OCD), depression. Nevertheless, he was found not disabled. This decision is the product of error requiring reversal with remand in the alternative. See 20 C.F.R. § 416.1470. Specifically:

- STEP THREE: CONCLUSORY PARAGRAPH B FINDING AND NO PARAGRAPH C ANALYSIS FOR LISTINGS 12.04/12.06/12.10/12.11
- ALJ'S MEDICAL-OPINION DISCUSSION VIOLATES § 416.920c BY OMITTING TREATING PSYCHIATRIC FUNCTIONAL OPINIONS AND BY CHERRY-PICKING A SINGLE "NORMAL" MSE TO REJECT PROBATIVE LIMITATIONS
- RFC AND STEP-FIVE FINDING ARE UNSUPPORTED BECAUSE THE ALJ CHERRY-PICKED "NORMAL" SNAPSHOTS TO REJECT WORK-PRECLUSIVE PACE/ ATTENTION AND SUPERVISION LIMITS CONFIRMED BY THE VE

I. STEP THREE: CONCLUSORY PARAGRAPH B FINDING AND NO PARAGRAPH C ANALYSIS FOR LISTINGS 12.04/12.06/12.10/12.11

At Step Three, the ALJ found: "The severity of the claimant's mental impairments, considered singly and in combination, do not meet or medically equal the criteria of listings 12.04, 12.06, 12.10, and 12.11… Because the claimant's mental impairments do not cause at least two 'marked' limitations or one 'extreme' limitation, the 'paragraph B' criteria are not satisfied." (Decision at p. 7). That is the entirety of the Step Three analysis: the decision does not provide a functional-area narrative tied to record evidence for the four Paragraph B domains, and it does not address Paragraph C at all. (Decision at p. 7).

The longitudinal evidence squarely implicates marked limitations in at least interacting with others and concentrating/persisting/maintaining pace. Treating psychiatry repeatedly documented severe social anxiety and inability to sustain work: "Patient struggles significantly at work," "He is not able to keep his job," and he has a hard time hanging onto jobs "due to severe anxiety." (Exhibit 4F p. 1; Exhibit 3F p. 2). A consultative examiner described the claimant as "extremely shy and inhibited," with "severe social anxiety" and inability to interact with unfamiliar people. (Exhibit 2F p. 1). Mr. Hendricks likewise documented that the claimant "gets very nervous when he is around people," "doesn't like to socialize," and avoids group activity. (Exhibit 8F p. 3).

On CPP, multiple treating notes identify a "short [attention span] unable to pay attention," anxiety with ruminative thoughts, and a "Slow" thought process. (Exhibit 7F p. 1; Exhibit 5F p. 1). Earlier treating care likewise documented "poor, easily forgetful and distracted" attention/ concentration and an "evident" short attention span. (Exhibit 14F pp. 6, 8). Mr. Hendricks reported the claimant "struggles with being able to maintain a persistent pace." (Exhibit 8F p. 3).

On adaptation/managing oneself, the record documents panic-driven job loss ("quit his job because of anxiety disorder and panic attack"), and the hearing testimony described destructive dysregulation ("holes in the wall") and the need for family management of daily functioning. (Exhibit 5F p. 1). Third-party work evidence reports extra supervision, lower productivity, and inability to sustain ordinary work demands. (Exhibit 19E; Exhibit 18E). These are precisely the functional consequences Paragraph B and Paragraph C are designed to evaluate; a bare conclusion is not a substitute for analysis.

The ALJ's conclusory Step Three finding violates 20 C.F.R. §§ 416.920(d), 416.925, and 416.926 because it prevents meaningful review of whether the impairments meet/equal the Listings, singly and in combination. *See* Moore v. Barnhart, 405 F.3d 1208, 1213-14 (11th Cir. 2005) (requiring the ALJ to incorporate the "special technique" functional-area analysis into findings and conclusions; failure requires remand); *see also* Todd v. Heckler, 736 F.2d 641, 642 (11th Cir. 1984) (reversing where ALJ did not consider Appendix 1 in applying the sequential evaluation); Bowen v. Heckler, 748 F.2d 629, 635 (11th Cir. 1984) (requiring "specific and well-articulated findings" on combined effects); Winschel v. Comm'r of Soc. Sec., 631 F.3d 1176, 1180 (11th Cir. 2011) (requiring clear articulation of mental functional limitations, not conclusory discussion). To be sure, the record contains some benign descriptors (*e.g.,* logical thoughts/intact

concentration cited by the ALJ). (Decision at p. 9). But those isolated observations do not resolve the domain-by-domain, work-sustaining functional inquiry the Listings require, and they cannot cure the complete omission of Paragraph C analysis. (Decision at p. 7).

Remand is required because the Step Three error was prejudicial, not harmless: the VE testified that additional, record-supported functional consequences—off-task behavior, need for repeated instructions, extra supervision, and significant slowness—eliminate competitive employment. (VE testimony). Without a reasoned Paragraph B/Paragraph C analysis (and the SSR 96-8p bridge to the RFC), the Appeals Council cannot determine whether the Listings were properly evaluated, nor whether the Step Five denial rests on an accurate assessment of the claimant's mental functioning over time. (Decision at pp. 7-9).

II. ALJ'S MEDICAL-OPINION DISCUSSION VIOLATES § 416.920c BY OMITTING TREATING PSYCHIATRIC FUNCTIONAL OPINIONS AND BY CHERRY-PICKING A SINGLE "NORMAL" MSE TO REJECT PROBATIVE LIMITATIONS

The ALJ's medical-opinion analysis is legally insufficient because it addresses only four items: (1) "Mr. Hendricks opined the claimant could not manage his funds… I do not find this opinion to be persuasive" (Decision at p. 9); (2) Ms. Palmer's physical opinion (Decision at p. 9); and (3) the "lower component" prior administrative findings, found "somewhat persuasive but only where consistent with my findings" (Decision at p. 10), plus Exhibit 1A rejected on a non-medical rationale (Decision at p. 10). That is not the "careful consideration of the entire record" required where the file contains multiple treating-source functional statements directly describing work-sustaining incapacity. (Decision at p. 8).

Most importantly, the ALJ omitted evaluation of Lakeside Behavioral Health's longitudinal psychiatric evaluations documenting work-preclusive functional limits. Dr. Brennan repeatedly recorded that the claimant "struggles significantly at work," "is not able to keep his job," and "has a hard time hanging on to [a] job due to severe anxiety." (Exhibit 4F p. 1; Exhibit 3F p. 2). He also documented panic-driven job loss ("quit his job because of anxiety disorder and panic attack"), alongside objective MSE findings of "Attention Span: short unable to pay attention" and "Thought process: Slow." (Exhibit 5F p. 1). These are not mere background "history"—they are medical judgments about what the claimant can still do in work-related terms and therefore required evaluation for persuasiveness under 20 C.F.R. § 416.920c and incorporation (or rejection with explanation) under SSR 96-8p. *See* Winschel v. Comm'r of Soc. Sec., 631 F.3d 1176, 1179 (11th Cir. 2011).

The ALJ also discounted the July 2024 consultative psychological opinion by cherry-picking a single later "normal" MSE: "in November 2024… attention and concentration was intact, fund of knowledge was average, he had logical thoughts…" (Decision at p. 9 (citing Exhibit 10F)). But that citation does not engage with Hendricks's functional observations that the claimant "struggles with… maintain[ing] a persistent pace," "gets very nervous when he is around people," and exhibits impaired real-world judgment (*e.g.,* he would "wait and see" if he smelled smoke in a crowded theater). (Exhibit 8F pp. 3-4). The Eleventh Circuit has repeatedly condemned this type of "snapshot" reasoning in mental-impairment cases, where isolated benign

findings are used to sidestep longitudinal functional deficits. *See* Simon v. Comm'r, Soc. Sec. Admin., 7 F.4th 1094, 1105-06 (11th Cir. 2021); Schink v. Comm'r of Soc. Sec., 935 F.3d 1245, 1262-67 (11th Cir. 2019).

Nor is the error harmless. The omitted treating functional findings—job loss from severe anxiety/panic and chronic short attention span/slow thought process—map directly onto VE-confirmed work-preclusive limitations (off-task behavior, repeated instructions, extra supervision, and significant slowness). (Exhibit 4F p. 1; Exhibit 5F p. 1). Because the decision neither evaluates these opinions under § 416.920c's supportability/consistency factors nor explains their rejection in a way that permits meaningful review, remand is required. *See* Harner v. Soc. Sec. Admin., Comm'r, 38 F.4th 892, 896 (11th Cir. 2022); Keeton v. Dep't of Health & Hum. Servs., 21 F.3d 1064, 1066 (11th Cir. 1994).

III. RFC AND STEP-FIVE FINDING ARE UNSUPPORTED BECAUSE THE ALJ CHERRY-PICKED "NORMAL" SNAPSHOTS TO REJECT WORK-PRECLUSIVE PACE/ATTENTION AND SUPERVISION LIMITS CONFIRMED BY THE VE

The RFC limited Mr. Smith to "simple instructions, but not at a production rate pace (*e.g.,* no assembly line work)," "no more than occasional interaction with the public, coworkers, and supervisors," and "only occasional changes." (Decision at p. 8). Based on that RFC, the ALJ found he could perform jobs such as laundry worker, industrial cleaner, and warehouse worker. (Decision at p. 11). But the VE made categorical, dispositive concessions: (1) if the worker is "off task 20 percent of the time," "there would be no jobs this worker could perform in the national economy"; (2) if he needs "repeated instructions," he "would not be capable of competitive employment"; (3) if he needs "extra help and supervision throughout the day," he "would not be capable of competitive employment"; and (4) if he is significantly slower (taking longer to complete tasks), "there would be no jobs." (VE testimony).

Those VE-eliminating limitations are not speculative attorney inventions—they track the longitudinal clinical and third-party evidence the RFC ignores. Treating psychiatry repeatedly documented "Attention Span: short unable to pay attention" with a "Slow" thought process and ruminative anxiety. (Exhibit 5F p. 1; Exhibit 4F p. 2; Exhibit 7F p. 1). Earlier treating care likewise found "poor, easily forgetful and distracted" attention/concentration and that a "short attention span is evident" and he is "easily distracted." (Exhibit 14F pp. 6, 8). Work evidence corroborates the functional translation: employer reporting that he required "special assistance and extra supervision," took more breaks, and produced "about 50% or less" of other employees. (Exhibit 19E). A third-party similarly described inability to complete tasks independently without close supervision. (Exhibit 18E).

Instead of grappling with this sustained-work evidence as SSR 96-8p requires, the ALJ discounted symptoms by cherry-picking isolated "peer relationships are good" and "concentration is intact" references. (Decision at p. 9). That is the same error the Eleventh Circuit condemns when ALJs treat benign mental-status "snapshots" as a substitute for a longitudinal functional assessment of whether the claimant can sustain competitive work. *See* Simon v. Comm'r, Soc.

Sec. Admin., 7 F.4th 1094, 1106-07 (11th Cir. 2021); Schink v. Comm'r of Soc. Sec., 935 F.3d 1245, 1263-67 (11th Cir. 2019).

The symptom evaluation is also legally insufficient under SSR 16-3p because it relies on being "off medication for several years" without a reasoned analysis of the record-supported explanations (including medication intolerance described by the family and claimant). (Decision at p. 9; Hearing testimony). The Eleventh Circuit requires "explicit and adequate reasons" for rejecting subjective symptom evidence, and it forbids negative inferences from treatment history without considering explanations. *See* Holt v. Sullivan, 921 F.2d 1221, 1223 (11th Cir. 1991); Foote v. Chater, 67 F.3d 1553, 1561-62 (11th Cir. 1995); Henry v. Comm'r of Soc. Sec., 802 F.3d 1264, 1267-68 (11th Cir. 2015).

Prejudice is obvious. The ALJ's "no production rate pace" limitation is not a substitute for the record-supported needs for repeated instructions, ongoing supervision, and materially slower completion—limitations the VE testified eliminate all work. (Decision at p. 8; VE testimony). Because adding any one of these supported limitations is outcome-determinative at Step Five, the RFC error is not harmless and requires reversal with remand (or, alternatively, remand for proper RFC and Step Five findings). *See* Winschel v. Comm'r of Soc. Sec., 631 F.3d 1176, 1180-81 (11th Cir. 2011).

Conclusion

Based on the foregoing, Mr. Smith respectfully requests reversal of the prior decision and rendering of a finding of disability from the alleged onset date based on the weight of the evidence. If a finding of disability cannot be rendered at this stage, Mr. Smith respectfully requests that the claim be remanded for further findings. Mr. Smith further requests all other appropriate relief in his favor.

Respectfully submitted,

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