June 10, 2025

The Honorable Robert M. Callahan
Administrative Law Judge
Office of Hearings Operations
1520 Main Street, Suite 400
Columbia, SC 29210

Re: Claimant: John Smith
SS#: 123-45-6789
Type of Claim: Concurrent

Prehearing Memorandum in Support of a Favorable Decision

Your Honor:

Please accept this letter as the outline and proposed findings of fact in the case of John Smith. This case is set to be heard by Your Honor on June 18th, 2025. Where possible, citations have been made to the record as it exists in the electronic file.

Introduction

Mr. Smith is a 57-year-old man who has completed one year of college. Over the relevant period, he has performed the following occupations: Wheel vehicle mechanic / Deadhead Mechanic and Federal Technician. It is anticipated that the Wheel vehicle mechanic / Deadhead Mechanic position will be classified as light in exertion and skilled. On August 8th, 2023, Mr. Smith protectively filed concurrent applications for Title II and Title XVI disability benefits, alleging an onset of disability on July 20th, 2023; he has a date last insured of December 31st, 2027. Over the period at issue, Mr. Smith has been unable to engage in substantial work activities as detailed below.

Sequential Analysis

In applying the sequential analysis, we respectfully submit the following:

Step One

Mr. Smith has not engaged in substantial gainful activity over the period at issue.

Step Two

Mr. Smith does indeed suffer from medically determinable impairments that are severe, including:

- **Posttraumatic stress disorder (PTSD)**, Exhibit 7F pp. 10-11; Exhibit 6F pp. 5-6; Exhibit 3F pp. 6-8
- **Major depressive disorder**, Exhibit 6F pp. 5-6; Exhibit 3F pp. 6-8; Exhibit 8F pp. 94, 101-102
- **Fibromyalgia/chronic multisymptom illness**, Exhibit 8F pp. 9-12, 20; Exhibit 8F pp. 34, 41-45
- **Chronic Fatigue Syndrome (CFS)**, Exhibit 8F pp. 34, 36-37, 47-50; Exhibit 8F pp. 79, 81-82; Exhibit 8F pp. 9-12, 20
- **Lumbar spine condition (degenerative disc disease, facet arthropathy, retrolisthesis)**, Exhibit 4F p. 1; Exhibit 8F pp. 132-199
- **Cognitive impairment / memory disorder**, Exhibit 8F pp. 79, 81-82; Exhibit 8F pp. 34, 47-50; Exhibit 8F pp. 9-12, 20
- **Obstructive sleep apnea**, Exhibit 6F pp. 14-15, 21; Exhibit 8F pp. 34, 47-50
- **Headache disorder (migraines)**, Exhibit 5F pp. 1-2, 4; Exhibit 6F pp. 14-15, 21
- **Hearing/ear condition (tinnitus)**, Exhibit 8F pp. 132-199
- **Obesity**, Exhibit 2F p. 59
- **Anxiety disorder**, Exhibit 5F pp. 1-2, 4; Exhibit 3F pp. 6-8
- **Gastrointestinal disorder (GERD, IBS)**, Exhibit 6F pp. 14-15, 21; Exhibit 8F pp. 79, 81-82
- **Genitourinary condition (elevated PSA, erectile dysfunction)**, Exhibit 7F p. 20; Exhibit 6F pp. 5-6
- **Ankle condition (right ankle disability with heel spur)**, Exhibit 8F pp. 34, 41-45
- **Skin condition (dermatitis, tinea versicolor, recurrent rash)**, Exhibit 8F pp. 9-12, 20; Exhibit 8F pp. 94, 109, 113, 125-127

SSA's own reviewers previously found PTSD, disorders of the skeletal spine (including compromise of a nerve root), back pain/degenerative disc disease (L5-S1 and L4-5 retrolisthesis), depressive disorders (including major depression), primary headache disorder (including migraine), GERD, IBS, sleep apnea, and right ankle pain severe.

The Department of Veterans Affairs determined Mr. Smith has a 50% service-connected PTSD rating for the period prior to January 6th, 2020, and denied a rating higher than 50% from January 6th, 2020. Exhibit 1D p. 2. The VA further determined a 100% combined service-connected disability evaluation effective December 1st, 2022. Exhibit 1D p. 9; Exhibit 4D p. 2. The VA granted service connection for chronic fatigue syndrome with a 40% evaluation effective November 8th, 2023. Exhibit 4D p. 1.

Note: the list above is only representative of some of the conditions impacting the claimant and is not meant to be an exhaustive list.

On July 14th, 2015, Mr. Smith underwent a Persian Gulf registry evaluation documenting a long history of persistent fatigue, myalgias/joint pain, memory issues, and chronic skin symptoms, with diagnoses including chronic multi-symptom illness, myalgic encephalomyelitis/ chronic fatigue syndrome, dermatitis, and tinea versicolor. Exhibit 8F pp. 9-12, 20. Although this evidence predates the AOD by years, it provides a clear clinical baseline that these symptoms were not transient and instead persisted into the period at issue, later becoming formally evaluated and rated by the VA. Id.; Exhibit 4D p. 1.

On January 30th, 2023, prior to the AOD, VA examination findings documented lumbar degenerative changes with functional limitation and painful motion, along with a history of flare-ups described as, “Sometimes get so bad can't get out of the bed, I would have to roll out of the bed.” Exhibit 8F pp. 132-199. This pre-AOD lumbar pathology and functional loss aligns with the later radiographic progression showing severe degenerative disc disease at L5-S1 during the insured period. Id.; Exhibit 4F p. 1.

On May 16th, 2023, still before the AOD, Mr. Smith was evaluated in connection with chronic fatigue syndrome and reported cognitive and neuropsychologic symptoms including “Confusion,” “Forgetfulness,” “Inability to concentrate,” and described episodes where he could not process verbal information and would forget a task by the time he reached for a tool. Exhibit 8F pp. 79, 81-82. This is directly consistent with his ongoing allegations of memory disorder and impaired concentration and supports that cognitive impairment has been a persistent medical issue, not a recent subjective complaint. Id.

On November 8th, 2023, shortly after the AOD, the VA documented chronic fatigue syndrome with symptoms described as “nearly constant,” with restriction of routine daily activities “from 50 to 75 percent of the pre-illness level.” Exhibit 8F pp. 34, 36-37, 47-50. Mr. Smith reported that he had “no energy,” and that even after 8 hours of sleep he would “wake up exhausted,” with fatigue lasting “24 hours or longer after exercise.” Id. This functional restriction is consistent with vocationally significant limitations in attendance, pace, and recovery time following activity. Id.

On June 10th, 2024, during a psychiatric follow-up, Mr. Smith continued to show PTSD and major depressive disorder symptoms with constricted affect and anxious mood, endorsed hypervigilance and increased startle response, and continued sleep disturbance described as “broken sleep.” Exhibit 3F pp. 6-8. These findings support persistence of trauma-related arousal and impaired sleep despite ongoing psychiatric treatment, and they corroborate ongoing functional limitation in stress tolerance and social interaction. Id.

On September 13th, 2024, Mr. Smith’s obstructive sleep apnea follow-up included objective CPAP download data, with median usage 2.3 hours per day and use on 45 of 90 days, alongside continued complaints of “broken sleep.” Exhibit 6F pp. 14-15, 21. The data and symptoms together support that, within the insured period, sleep-related impairment remained clinically present and restorative sleep was not reliably achieved, a significant aggravating factor for PTSD, depression, headaches, pain conditions, and daytime functioning. Id.

On November 7th, 2024, lumbar spine imaging documented degenerative disease through the mid to lower lumbar spine "most severe L5-S1," with "severe degenerative disc disease" at L5-S1, additional retrolisthesis at L4-5, and facet arthropathy. Exhibit 4F p. 1. This objective diagnostic evidence supports ongoing structural impairment consistent with reduced tolerance for standing, walking, lifting, bending, and sustained postures. Id.

On November 18th, 2024, the consultative examiner documented ongoing migraines occurring approximately twice per month, lasting about a day, during which Mr. Smith reported he "must lay in a dark quiet room." Exhibit 5F pp. 1-2, 4. The examiner also documented that Mr. Smith's conditions limited his ability to "Interact with others," consistent with his PTSD-related crowd avoidance and hypervigilance. Id. Migraine episodes of this nature reasonably translate into time off task and absences that are not compatible with competitive work. Id.

On December 9th, 2024 and March 10th, 2025, Mr. Smith's ongoing psychiatric follow-ups continued to document PTSD and major depressive disorder with constricted affect, anxious mood, hypervigilance, increased startle, and "broken sleep." Exhibit 6F pp. 5-6; Exhibit 7F pp. 10-11. These repeated clinical findings across visits show persistence of mental health symptoms during the insured period and provide longitudinal support for severe limitations in adaptation to work stressors, sustained concentration, and social functioning. Id.

Step Three

Mr. Smith reserves the right to offer a listing argument at hearing and respectfully requests that all applicable listings be considered, including Listings 12.15 and 12.04. The medical evidence supports that Mr. Smith's impairments medically equal these listings.

Mr. Smith's chronic posttraumatic stress disorder and major depressive disorder, considered in combination with chronic fatigue syndrome, cognitive symptoms, and chronic pain, cause limitations in functioning that are equivalent in severity and duration to the paragraph B criteria. His ongoing symptoms, despite treatment, demonstrate persistent deficits in adapting or managing oneself, interacting with others, and maintaining concentration, persistence, and pace.

- VA DBQ, occupational and social impairment with deficiencies in most areas (Exhibit 8F pp. 125-127)
- Suicidal ideation with plan to shoot himself reported during PTSD evaluation (Exhibit 8F pp. 128-131)
- Constricted affect, anxious mood, hypervigilance, increased startle, broken sleep (Exhibit 3F pp. 6-8)
- Same PTSD findings continued at subsequent VA follow-ups (Exhibit 6F pp. 5-6; Exhibit 7F pp. 10-11)
- Avoidance of crowds and limitation in interacting with others (Exhibit 5F pp. 1-2, 4)
- CFS symptoms nearly constant, restricting activities 50 to 75 percent pre-illness (Exhibit 8F pp. 36-37, 41-45)

- Confusion, forgetfulness, inability to concentrate documented in CFS evaluation (Exhibit 8F pp. 81-82)
- Severe L5-S1 degenerative disc disease with retrolisthesis on lumbar X-ray (Exhibit 4F p. 1)

Step Four

Notwithstanding the position taken in Step Three, Mr. Smith clearly cannot perform his past relevant work. His service as a Wheel vehicle mechanic / Deadhead Mechanic (light) required up to four hours of standing, frequent short-distance carrying and lifting of parts, supervisory/ diagnostic tasks, and other sustained physical activities that exceed Mr. Smith's current exertional capacity, and his work as a Federal Technician likewise required sustained concentration and task coordination that he cannot maintain given his psychiatric and cognitive impairments; he therefore cannot meet the physical and mental demands of these jobs. See 20 CFR §§ 404.1567(b), 416.967(b), 404.1568(b), 404.1568(c), 416.968(b), 416.968(c).

Step Five

Moreover, in light of the functional limitations placed upon Mr. Smith, he is unable to perform any other work generally available in the national or regional economies. The medical evidence of record squarely called into question his ability to sustain even sedentary, unskilled work activities on a regular and continuing basis. See SSR 96-9p; SSR 96-8p.

- Standing and walking limited to approximately 4 hours total per day; can walk about 2 miles before needing to rest and requires ~20 minutes to recover (Claimant report).
- Sitting limited to approximately 1 hour at a time per day, with significant difficulty remaining seated and getting out of bed due to pain and fatigue (Claimant report).
- Manipulative/reaching limitations and overhead work restricted to about 1–2 hours per day; heavy lifting limited to under 10 pounds and frequently under 1 pound (Claimant report).
- Marked limitations in concentration, persistence, and pace, including short attention span of 3–5 minutes, difficulty completing tasks, and need for reminders to perform personal care (Claimant report; Third-party report).
- Sensory/environmental intolerance: migraines aggravated by light and loud noise, and panic/ anxiety in crowded places requiring accompaniment, limiting exposure to typical work settings (Claimant report).

These limitations support a residual functional capacity of no more than light work.

Nonetheless, even if Mr. Smith is found to possess a residual functional capacity for light work, Grid Rule 202.06 directs a finding that he is disabled.

Mr. Smith is an individual of advanced age. Mr. Smith does not possess education that would provide for direct entry into skilled work. Mr. Smith does possess work experience that may be classified as skilled or semiskilled; however, any skills acquired are isolated to their prior vocational settings or are disrupted by the experience of symptoms Mr. Smith experiences on a day-to-day basis. As such, Mr. Smith does not possess skills transferable to other work.

As such, because his vocational profile mirrors the requirements of Grid Rule 202.06, the Medical-Vocational Guidelines direct a finding that Mr. Smith is disabled even if he is found to possess a residual functional capacity for light work. Such direction cannot be rebutted by vocational testimony. See SSR 83-5a.

Additionally, even if Mr. Smith is found to possess a residual functional capacity limited to sedentary work, Grid Rule 201.06 also directs a finding of disability. See SSR 83-5a.

Mr. Smith suffers from a disability as his medical condition precludes performance of any type of work available in the national or regional economy. Such disability has continued since at least the alleged onset date. Thank you for your consideration in this matter.

Respectfully submitted,

David R. Anderson
Attorney for John Smith