

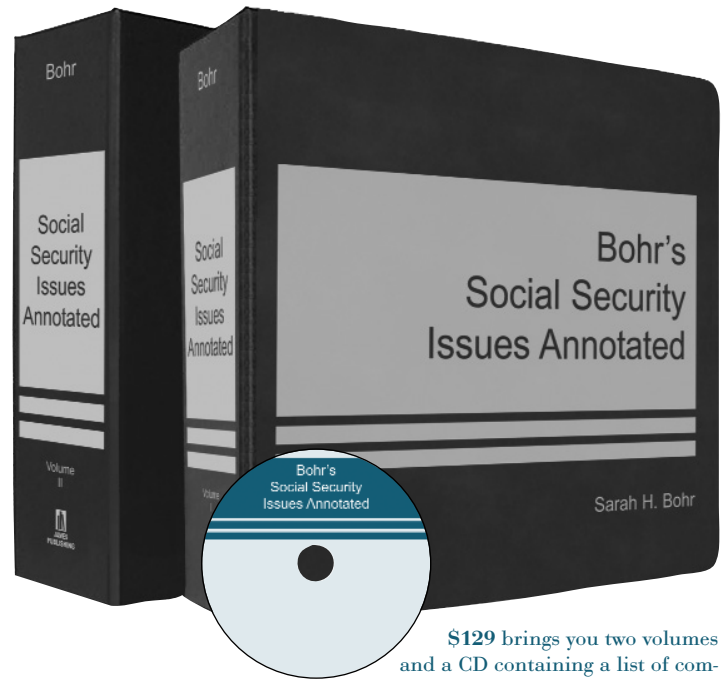
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Covers key issues

- ◆ Fibromyalgia and lupus cases
- ◆ Evaluation of pain testimony
- ◆ Medical equivalency and ALJ's responsibilities
- ◆ Chronic fatigue syndrome cases
- ◆ Manipulative limitations on sedentary work
- ◆ Lack of updated RFC assessment in record
- ◆ Effect of borderline mental capacity on application of grids
- ◆ Weight of the treating physician's opinion
- ◆ Effect of daily activities on credibility
- ◆ Vocational expert testimony that conflicts with DOT
- ◆ Definition of severity
- ◆ Cases citing SSR 96-8p (RFC assessments)
- ◆ Cases citing SSR 96-9p (less than sedentary RFCs)
- ◆ Sit/stand option and its impact on sedentary work
- ◆ Failure to follow prescribed treatment due to lack of money
- ◆ Responding to "Post Hoc Justification" in the government briefs
- ◆ Mental retardation cases
- ◆ The "Worn-out Worker" regulation
- ◆ Retroactivity of the 1996 Rulings
- ◆ Authority of HALLEX and POMS
- ◆ EAJA — Reasonableness of hours claimed
- ◆ EAJA payee issues — Who gets paid?
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SUMMARY OF ARGUMENTS

- The ALJ failed to make explicit and necessary findings as to the physical and mental demands of the claimant's past work.
- The ALJ erred in not evaluating the claimant's ability to perform all of the duties of his/her past work.
- The ALJ erred in determining that the claimant's past work of less than three months constitutes "past relevant work."
- The ALJ improperly considered past work performed more than fifteen years prior to the date of the Decision.

E. STEP 5: OTHER WORK

- The ALJ erred in mechanically applying the age category of the Medical-Vocational Guidelines ("Grids") due to the claimant's borderline age.
- The ALJ erred in...

not expressly consider the severity of the claimant's incontinence, assuming that the ALJ implicitly determined that this condition was not significant, such a conclusion was not supported by substantial evidence. *Id.* In so holding, the Fifth Circuit noted that the claimant's claim of incontinence was "uncontroverted" as (1) he reported this condition when he first applied for benefits; (2) he complained of this ailment on at least three occasions prior to being formally diagnosed with fecal incontinence which, at that time, was occurring "from twice a month up to [five] times a week"; (3) at his hearing, he testified that he had infrequent fecal and urinary incontinence that occurred five to seven times per month with no consistent pattern; (4) his aunt, with whom he had lived since 1992, testified at the hearing that she noticed "traces" of the claimant's incontinence on his undergarments at least "ten times" per month when doing his laundry; and (5) the consulting physician acknowledged that Crowley suffered from incontinence that was "episodic, intermittent and unpredictable." *Id.* The court also found no support for the district court's conclusion that "Crowley's fecal incontinence appears at most to be a nuisance that he can cope with, by use of undergarments designed for that purpose." *Id.* The Fifth Circuit affirmed the ALJ's findings with respect to incontinence (as well as the adverse side effects) were unsupported by the ALJ's exclusive reliance on *Id.* at 199.

The Eighth Circuit held that none of the evidence contradicted the treating doctor's testimony or assertion that the claimant was disabled by severe bladder problems in 1974 which resulted in radical surgery in 1976 in which his bladder was removed. *Id.* at 344. The court also pointed out that the treating physician "could be expected to be quite familiar with the medical history of a patient he had treated for almost forty years..." and, further, that he had offered "a specific, reasonable explanation for his detailed recollection of [the claimant's] case." *Id.* at 344.

(3) The court affirmed the ALJ's decision finding there was no medical evidence to support the claimant's allegation that her frequent urination precluded employment. *Rozgovicki v. Callahan*, 982 F. Supp. 660, 670 (E.D. Mo., 1997).

(4) A claimant who alleged that her recurrent urinary tract infections and chronic bowel irritations required frequent trips to the bathroom and made her unemployable was contradicted by her testimony that she was able to work while having the exact same impairments. *Dodson v. Chater*, 101 F.3d 533, 534 (8th Cir. 1996).

1. These two checklists of common ALJ errors help you begin your analysis.

b. Eighth Circuit
 (1) The Eighth Circuit's finding that incontinence can be a serious disability in certain circumstances, but noted that the claimant's ongoing history of incontinence was mentioned in her disability reports and in her doctors' examination notes, neither the claimant nor her husband disclosed at the hearing that this was debilitating or even serious during the relevant time period. *Young v. Apfel*, 221 F.3d 1065, 1069 (8th Cir. 2000), citing *Crowley v. Apfel*, 197 F.3d 194, 198-99 (5th Cir. 1999); *Haynes v. Heckler*, 716 F.2d 483, 485 (8th Cir. 1983).

(2) In *Prosser v. Chater*, 121 F.3d 341, 343 (8th Cir. 1997), the claimant's treating physician stated that the claimant was unable to work in 1974 due to severe bladder infections and incontinence, and "was going to the bathroom every ten minutes." The

c. Ninth Circuit
 (1) A claimant who alleged that her recurrent urinary tract infections and chronic bowel irritations required frequent trips to the bathroom and made her unemployable was contradicted by her testimony that she was able to work while having the exact same impairments. *Dodson v. Chater*, 101 F.3d 533, 534 (8th Cir. 1996).

d. Tenth Circuit
 (1) A Kansas district court reversed and remanded for further factual findings, finding that the ALJ erred when he did not ask the VE whether a person who has had six and seven bowel movements per day would be employable, as was

...l category of the Medical-Vocational...
 illiteracy was not supported by substantial...
 ...ct of the claimant's illiteracy on his/her...
 ...ct of the claimant's inability to speak...
 ...ant who was limited to less than...
 ...200.00(h) of the Medical-Vocational...
 ...was capable of performing routine...
 ...ability to perform other work in the...
 ...claimant's impairments on his/her...
 ...'s non-exercional impairment of...
 ...extremity, depression, borderline...
 ...and its effect on his/her ability to...
 ...by to...
 ...67)

Tindell v. Barnhart, 444 F.3d 1002 (8th Cir. Apr. 19, 2006) (Decision by Circuit Judge HANSEN)

Case Survey
 § 202.11 Acceptable Medical Sources
 § 203.7 Weight of Examining Physician vs. Non-Examining Physician
 § 203.19 Weight of Evidence from a Mental Health Counselor
 § 204.3 Factors to Consider in Making Credibility Determinations
 § 204.4 Unreliable Testimony Based on Inconsistencies in the Record
 § 204.7 Work History and Credibility
 § 204.8 Daily Activities and Impact on Credibility
 § 204.11 Credibility and Medical Opinion that Claimant is Exaggerating

The Eighth Circuit held that the ALJ properly weighed the conflicting opinions of the various medical providers of record. Generally, examining source opinions are entitled to greater weight than the opinion of a psychologist who has never met the claimant and bases his opinion solely on the record. However, the court found that the ALJ gave sufficient reasons for affording greater weight to the opinion of the nonexamining psychologist than the opinions of the examining psychologist or the treating therapist.

First, the therapist, a licensed social worker, is not considered an "acceptable medical source" and is not defined as a "treating source." Nor was he associated with a physician, psychologist, or other acceptable medical source that could potentially give him treating source status. Thus, in considering the evidence from the treating therapist, the ALJ was not bound by the treating source regulations but had "more discretion" and was "permitted to consider any inconsistencies found within the record." The nonexamining psychologist also had given specific reasons for disagreeing with the opinion of the examining psychologist and the treating therapist, including the fact that the medical records revealed minimal symptoms, the therapist had assigned significantly different GAF scores on two consecutive days, the claimant's MMPI test showed a faking profile, and the therapist reported limitations to the Commissioner which were not in the treatment records. Thus, the court approved of the ALJ's explanation of the inconsistencies that led him to give greater weight to the nonexamining psychologist's opinion.

The Eighth Circuit further held that the ALJ properly considered the claimant's credibility under the *Poianka* factors and supported his credibility assessment with detailed findings. The ALJ determined that the claimant was not fully credible because she had attended college classes after her alleged onset date; she had worked part-time; and she had taken care of her young grandson.

After reviewing the record, the court found that the ALJ's decision, which relied on vocational evidence,

Case Survey
 § 202.11 Acceptable Medical Sources
 § 203.7 Weight of Examining Physician vs. Non-Examining Physician
 § 203.19 Weight of Evidence from a Mental Health Counselor
 § 204.3 Factors to Consider in Making Credibility Determinations
 § 204.4 Unreliable Testimony Based on Inconsistencies in the Record
 § 204.7 Work History and Credibility
 § 204.8 Daily Activities and Impact on Credibility
 § 204.11 Credibility and Medical Opinion that Claimant is Exaggerating

March v. Barnhart, 438 F.3d 897 (8th Cir. Feb. 27, 2006) (Decision by Circuit Judge BENTON), superseding *March v. Barnhart*, 431 F.3d 1073 (8th Cir. Dec. 6, 2005)

The Eighth Circuit held that ALJ's decision that the claimant's impairments did not meet or equal Listing 12.05 for mental retardation was not based on substantial evidence and remanded for an award of benefits. First, the court noted that the introductory paragraph to Listing 12.05 itself states that a claimant must satisfy the diagnostic description in the introduction and any one of the four sets of criteria in listing 12.05. Specifically, the introductory paragraph requires that the "deficits in adaptive functioning are initially manifested before age 22." Thus, under the plain language of the regulations, a claimant must demonstrate or support onset of the impairment before age 22.

The court then looked to whether the claimant's impairments met the three requirements of Listing 12.05C: (1) a valid verbal, performance, or full scale IQ of 60 through 70; (2) an onset of the impairment before age 22; and (3) a physical or other mental impairment imposing an additional and significant work-related limitation of function. The court held that substantial evidence in the record showed that the claimant's mental retardation

2. Recent cases are summarized and organized by issue and circuit so you have the latest law.

3. A comprehensive survey of recent law speeds you to relevant analysis and citations.

SAMPLE APPEALS COUNCIL ARGUMENTS: A SURVEY OF COMMON ERRORS IN ALJ DECISIONS

I. SEQUENTIAL EVALUATION PROCESS ISSUES

A. SEVERE IMPAIRMENT

- The ALJ failed to follow the "slight abnormality" standard in finding that the claimant's ***[sic impairment] is non-severe.
Applicable law: In accordance with SSR 96-3p, an impairment is considered severe if it "significantly limits an individual's physical or mental abilities to do basic work activities." SSR 96-3p further provides that "an impairment(s) that is 'not severe' must be a slight abnormality (or a combination of slight abnormalities) that has no more than a minimal effect on the ability to do basic work activities."
Applicable law: Social Security Ruling 96-6p states that findings regarding the nature and severity of an impairment made by State agency consultants and other program physicians and psychologists "must be treated as expert opinion evidence of State agency medical and psychological consultants or other program physicians or psychologists as opinion evidence..."
- The ALJ's finding that the claimant's ** [state impairment] was not severe is contradicted by the opinion of the State agency non-examining physician and the ALJ provided no rationale for this conflict, as required by SSR 96-6p.
Applicable law: Social Security Ruling 96-6p states that findings regarding the nature and severity of an impairment made by State agency consultants and other program physicians and psychologists "must be treated as expert opinion evidence of State agency medical and psychological consultants or other program physicians or psychologists as opinion evidence..."
- The ALJ violated SSR 96-8p in not considering the effect of the claimant's *** [state impairment] on his/her ability to work.
Applicable law: SSR 96-8p requires considering the impact of both severe and non-severe impairments on the ability to work.
In assessing RFC, the adjudicator must consider limitations and restrictions imposed by all of an individual's impairments, even those that are not "severe." While a "not severe" impairment(s) standing alone may not significantly limit an ability to do basic work activities, it may be critical to the outcome of a claim. For restrictions due to other impairments—be critical to the outcome of a claim. For example, in combination with limitations imposed by an individual's other

(2) A district court in Kansas reversed the ALJ's determination that the claimant was unable to do fecal incontinence, finding no substantial evidence to support the ALJ's decision to discount the claimant's testimony and the opinion of his treating physician, a certified gastroenterologist, who opined that fecal incontinence rendered him unemployable. *Umscheid v. Apfel*, 993 F. Supp. 1343, 1349 (D. Kan. 1998).

§ 308.2 Evaluation of Nephrotic Syndrome

[Editor's Note: This topic is reserved for future updates]

§ 309 GROWTH IMPAIRMENTS (CHILDHOOD LISTINGS)

A Louisiana district court held that the ALJ's finding that the child's severe developmental delay did not have an impairment which equaled Listing 111.07(B)(3) was supported by substantial record evidence. *Smith on behalf of Smith v. Apfel*, 87 F. Supp.2d 621, 626 (W.D. La. 2000). This is because the record indicated that the child did not have a significant interference with communication due to speech. *Id.*

§ 310 HEMIC AND LYMPHATIC SYSTEM IMPAIRMENTS

§ 310.1 Evaluation of Sickle Cell Anemia

a. In *Ross*, the Eighth Circuit held that the ALJ erred in relying on the testimony of a medical expert, to testify that the claimant had a "microcytosis," feature not associated with sickle cell anemia, but which would suggest the presence of "alpha-thalassemia trait" and would be beneficial to the claimant's condition. *Ross v. Apfel*, 218 F.3d 844, 847 (8th Cir. 2000). The court did not think that this testimony was "probative evidence," as there was no dispute that the claimant had sickle cell anemia and the ME did not testify, nor did the record indicate that the

...and the "beneficial alpha-thalassemia trait," the record supported the claimant's position. *Id.* The court also found that the ALJ improperly relied on the testimony "that the prognosis for sickle cell anemia is better than it used to be, because children are treated with penicillin," noting that while this may be true, there was no evidence that the claimant was treated with penicillin as a child. *Id.* at 847. Additionally, the Eighth Circuit found that the fact that x-rays of the claimant's feet were for the most part normal was not significant, stating, "[a]lthough a person with sickle cell anemia may exhibit unusual physical features and bone changes that can be seen on an x-ray, a negative bone scan does not mean that there is not a serious condition." *Id.*

b. In *Ross*, the court was convinced that objective medical findings documented physical impairments which reasonably could produce pain and fatigue, consistent with the claimant's testimony and the symptoms of sickle cell anemia. *Ross v. Apfel*, 218 F.3d 844, 847 (8th Cir. 2000). Sickle cell anemia is characterized by:

"[a] painful crisis, the most common crisis and the hallmark of the disease, ... results from blood vessel obstruction by rigid, tangled sickle cells, which cause tissue anoxia and possible necrosis. This type of crisis is characterized by severe abdominal, thoracic, muscular, or bone pain."

Id. at 847, quoting PROFESSIONAL GUIDE TO DISEASES 622 (6th ed. 1998). The court noted that the claimant was hospitalized many times due to severe pain, that he suffered from the "SS" type of sickle cell anemia, which is the more severe form of the disease, and that his hematocrit lab values documented a severe condition which was worsening over time. *Id.* at 847-48. Thus, the court held that the ALJ erred in finding that the objective medical evidence did not document physical abnormalities which reasonably could produce the claimant's "intractable pain and fatigue." *Id.* at 850.

c. Where the record revealed that the claimant consistently complained of pain to her treating medical providers, and her physicians credited her complaints and responded to them, and where Demerol, "a potent narcotic analgesic dispensed for severe pain," did not fully relieve her pain, the record provided "ample documentation of [the claimant's] testimony of frequent, severe crisis pain from her sickle cell anemia." *Higgins v. Apfel*, 136 F. Supp.2d 971,

4. Frequently-arising issues are addressed with all the relevant regulations, rulings, POMS, and cases analyzed.

more hopeful, less depressed, and her suicidal ideation evaporated. If she stayed off alcohol, she did pretty well. Thus, when Salazar abstained from alcohol and drugs and was under treatment, her coping abilities and mental outlook improved.

Id. at 736.

Eleventh Circuit

In *Doughey*, the claimant was denied benefits pursuant to the Contract with America Advancement Act of 1996, Pub. L. No. 104-121, as amended at 42 U.S.C. § 423(d)(2)(C) (1997), based on a finding that his alcoholism was a contributing factor material to the determination that he was disabled. *Doughey v. Apfel*, 245 F.3d 1274, 1275 (11th Cir. 2001). The Eleventh Circuit held, as a matter of first impression, that the claimant bears the burden of proving that his alcoholism or drug addiction is not a contributing factor material to his disability determination. *Id.* at 1276. In so holding, the court agreed with the Fifth Circuit's reasoning in *Brown v. Apfel*, 192 F.3d 492 (5th Cir. 1999), which held that the claimant, and not the Commissioner, bears that burden. *Id.* at 1281. The SSA emergency teletype required the ALJ to call a medical or psychological consultant or disability examiner to testify regarding the materiality issue, finding that the teletype does not impose a "new requirement upon the ALJ to seek a consultant's opinion when making a materiality determination." *Id.*, citing Emergency Teletype, Office of Disability, Social Security Administration, "Questions and Answers Concerning DAA from July 2, 1996 TELECONFERENCE Medical Adjudicators require a consultative examination when necessary information is not in the record and cannot be obtained from the claimant's treating medical sources or other medical sources." *Id.*, citing 20 C.F.R. § 404.1519a(b). As sufficient evidence supported finding that the claimant's alcoholism was a contributing factor material to the disability determination, the Eleventh Circuit affirmed. *Id.*

A Florida district court noted that the Commissioner's instructions regarding handling the

STATEMENT OF THE CASE

A. Summary and Course of Administrative Proceedings.

... cases from Ms. Stewart's application for SSDI and SSI benefits filed on February 9, 2002, due to bi-polar disorder, obsessive compulsive disorder, and fibromyalgia. (Tr. 75-77, 97, 111-114, 116-117, 309-311). Following an initial hearing and upon reconsideration, Ms. Stewart requested a hearing which was held on February 8, 2005, before Administrative Law Judge ("ALJ") James Gildea. (Tr. 28-32, 35-36).

The court held that since the unfavorable decision dated November 17, 2003, ALJ Gildea concluded that Ms. Stewart's residual functional capacity ("RFC") for a significant range of light work "limited to sedentary work that does not require more than simple, routine tasks or constant interaction with co-workers" which precludes performance of her past relevant work but allows for some work that is not of the general public," which precludes performance of her past relevant work but allows for some work that is not of the general public." (Tr. 16-25). The ALJ's finding that the claimant's addiction was a contributing factor material to the determination of disability was supported by substantial evidence. *Id.*

D.C. Circuit

Based on the most recent record, the claimant did not meet the required level of severity of listing 12.02 in order to qualify for SSI benefits due to an organic mental disorder stemming from alcohol and drug addiction. *Farham v. Chater*, 964 F. Supp. 432, 436 (D.D.C. 1997).

Practical Pointer

If the claimant suffers from drug or alcohol addiction, he/she should carefully evaluate (and, if appropriate, develop) whether the claimant also suffers from other impairments, independent of the alcohol and drug addiction. In many cases, alcohol and drug addiction is a symptom of an underlying mental or physical impairment.

§ 1303 SPECIFIC IMPAIRMENTS: CHEMICAL SENSITIVITY AND/OR ENVIRONMENTAL ILLNESS AND/OR LIMITATION CASES

Modern medicine appears to be only now recognizing that some claimants may be suffering from illnesses related to chemical sensitivities. The courts have not welcomed the new diagnosis and appear to be applying a strict standard in terms of objective proof of such conditions. The following listing of cases includes the latest cases on chemical sensitivity diagnoses and a survey of some of the older

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
URBANA DIVISION

JENNIFER STEWART,
Plaintiff,
vs.
NATIONAL BUREAU OF
INVESTIGATION,
Defendant.

CASE NO CV 06-2074

**MEMORANDUM OF LAW IN SUPPORT OF
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT
PRELIMINARY STATEMENT**

42 U.S.C. § 405(g). Plaintiff, JENNIFER STEWART ("Ms. Stewart") seeks the final administrative decision of the Commissioner of Social Security denying her claim for Social Security Disability Insurance ("SSDI") benefits. Ms. Stewart's claim is not based on substantial evidence as required by the Commissioner and the Commissioner erred as a matter of law in denying her claim for SSDI benefits.

ISSUES

Reasons for rejecting the opinion of Dr. Barnett, Ms. Stewart's treating physician, her treating psychiatrist, are supported by substantial evidence. The Commissioner failed to sustain her burden of establishing that there is other work economy that Ms. Stewart can perform. The Appeals Council committed reversible error in finding that the new evidence does not provide a basis for changing the ALJ's decision.

Respectfully,

Attorney for the Acting Commissioner of Social Security on January 20, 2007. In accordance with Fed. R. Civ. P. 25(d)(1), Linda S. McMahon should be substituted as the defendant in this litigation.

5. Complete briefs provide issues, citations, and pattern argument language.

108 Model Briefs, Including:

U.S. Supreme Court
Issue Exhaustion

1st Circuit
VE Testimony Which Conflicts with DOT
Severity of Mental Impairments
Substance Abuse

2nd Circuit
Evaluation of Seizure Disorders
ALJ Improper Substitution of Opinion
Need to Treat a Skilled or Semi-Skilled Work History with No Transferable Skills as Equivalent to an Unskilled Work History
Overpayment
Treating Physician, Daily Activities, and Post-Hearing Evidence
Medical Improvement, Treating Physician, and Reversal for Payment of Benefits
Treating Physician, RFC, and VE Testimony

3rd Circuit
Overpayment Waiver Case
SSI Child's Disability
Evaluation of Anorexia
Obesity and VE Testimony Which Conflicts with DOT
RFC and Need for VE Testimony
Nonexertional Limitations and Need for VE Testimony

4th Circuit
Reflex Sympathy Dystrophy

5th Circuit
Duty to Recontact Treating Physician
Retrospective Medical Opinion and Obesity
Headaches and Treating Physician
Post-Polio Syndrome
Lupus Listing Met and Benefits Awarded
Medical Improvement Standard and Right to Cross-Examine Examining Physician
Cognitive Disorder
RFC and Credibility
Treating Physician and RFC
Medical Advisor and Onset, VE Testimony Which Conflicts with DOT
Failure to Follow Treatment

6th Circuit
VE Testimony
Need to Evaluate the Medical Opinions of Record
Past Work, Rejecting Only Opinion of RFC and Pain
RFC and Treating Physician's Opinion
Severity
Treating Psychiatrists v. State Agency Psychologists
VE Testimony Which Conflicts With the DOT, RFC Assessment
Treating Physician, Diabetic Neuropathy, and Visual Limitations

7th Circuit
Child's SSI Case (Mental Retardation)
Concentration Limitations and VE Testimony
EAJA Fees

8th Circuit
Residual Functional Capacity

9th Circuit
Materiality of Drug and Alcoholism
Evaluation of Hepatitis
Treating Physician's Opinion
Mental Impairment, Lay Evidence, and Sustained Work Activities
Overpayment and Impairment
RFC and Remand for an Award of Benefits
Treating Physician and Credibility
RFC and Knee Impairment
DOT and "Simple Instructions"
Severe Impairment, Need for Medical Advisor in Remote Onset Case

11th Circuit
Fibromyalgia
Treating Physician
Depression and Past Work
Tainted VE Testimony
Chronic Fatigue Syndrome
Survivorship Case
Termination Case
Treating Physician, RFC, and Credibility
Surviving Child's Benefit and Need for Credibility Findings
Right to Cross-Examine Post-Hearing Physicians
Development of the Record, Pain and Illiteracy
RFC Assessment and Treating Doctor's Opinion
Depression and Past Work
Treating Physician's Opinion and Subjective Complaints
Retirement
Overpayment, Excess Earnings
Need to Follow Appeals Council Remand Orders

About the Author

Sarah H. Bohr is an appellate attorney who has specialized in Social Security law for over 25 years. She is a partner in Bohr & Harrington, LLC, a Jacksonville, Florida law firm offering a national Social Security brief writing service. She has written briefs for filing in the district courts in every federal circuit as well as in the First, Second, Third, Fifth, Sixth, Ninth, and Eleventh Circuit Courts of Appeal and argued *Sims v. Apfel*, 530 U.S. 103 (2000) before the Supreme Court of the United States.



Other published favorable Social Security cases handled by Bohr & Harrington include: *Moore v. Barnhart*, 405 F.3d 1208 (11th Cir. 2005); *Vega v. Comm'r of Soc. Sec.*, 265 F.3d 1214 (11th Cir. 2001); *Lozada v. Astrue*, 2009 WL 860567 (M.D. Fla. Mar. 30, 2009); *Marchitto v. Astrue*, 2009 WL 804620 (M.D. Fla. Mar. 27, 2009); *Logan-Laracuente v. Astrue*, 2009 WL 506546 (E.D. Cal. Feb. 27, 2009); *Stephens v. Astrue*, 2009 WL 387157 (M.D. Ala. Feb. 13, 2009); *Monte v. Astrue*, 2009 WL 210720 (M.D. Fla. Jan. 28, 2009); *Zarilli v. Astrue*, 2008 WL 4936613 (D. Me. Nov. 16, 2008); *Bertash v. Astrue*, 2008 WL 4701923 (S.D. Fla. Oct. 22, 2008); *Schaub v. Comm'r of Social Sec.*, 2008 WL 4144443 (M.D. Fla. Sept. 5, 2008); *Yonce v. Comm'r*, 2008 WL 2414307 (M.D. Fla. June 11, 2008); *Brown v. Apfel*, 174 F.3d 59 (2d Cir. 1999); *Vuxta v. Comm'r of Soc. Sec.*, Case No. 06-11768, 2006 WL 2578705 (11th Cir. Sept. 8, 2006); *Sorn v. Barnhart*, Case No. 04-16103, 178 Fed. Appx. 680 (9th Cir. May 3, 2006); *Nyberg v. Comm'r of Soc. Sec.*, Case No. 05-16286, 179 Fed. Appx. 589 (11th Cir. May 2, 2006); *Kinnaird v. Barnhart*, Case No. 04-14247, 138 Fed. Appx. 224 (11th Cir. June 23, 2005); *Stricklin v. Astrue*, ___ F. Supp.2d ___, Case No. 09-2007, WL 1932109 (N.D. Ala. June 25, 2007); *Stutts v. Astrue*, 489 F. Supp.2d 1291 (N.D. Ala. 2007); *Cole ex rel. E.S.C. v. Barnhart*, 436 F. Supp. 2d 1239 (N.D. Ala. 2006); *Konya v. Barnhart*, 391 F. Supp.2d 273 (D. Del. 2005); *Whitzell v. Barnhart*, 379 F. Supp.2d 204 (D. Mass. 2005); *Cook v. Barnhart*, 347 F. Supp.2d 1125 (M.D. Ala. 2004); *White v. Barnhart*, 336 F. Supp.2d 1183 (N.D. Ala. 2004); *McManus v.*

Barnhart, 2004 WL 3316303 (M.D. Fla. Dec. 14, 2004); *Speights v. Barnhart*, 2004 WL 3331910 (M.D. La. Nov. 30, 2004); *Mead v. Barnhart*, 2004 WL 2580744 (D.N.H. Nov. 15, 2004); *Dowles v. Barnhart*, 258 F. Supp.2d 478 (W.D. La. 2003); *Leik v. Barnhart*, 296 F. Supp.2d 1345 (M.D. Fla. 2003); *Huggins v. Barnhart*, 2003 WL 21946460 (W.D. Tenn. July 1, 2003); *Barillaro v. Comm'r of Soc. Sec.*, 216 F. Supp.2d 121 (E.D.N.Y. 2002); *Austin v. Massanari*, 162 F. Supp.2d 517 (W.D. La. 2001); *Davidson v. Comm'r of Soc. Sec.*, 2001 WL 1524358 (N.D. Miss. May 29, 2001); and *Lamb v. Massanari*, 2001 WL 1910060 (W.D. Tenn. Dec. 12, 2001).

Ms. Bohr is a past president of the Board of Directors of NOSSCR and is a recipient of NOSSCR's 2007 Eileen P. Sweeney Distinguished Service Award in honor of her distinguished service on behalf of people with disabilities in America. In February 2008, Ms. Bohr was also presented with a professionalism award by the U.S. District Court for the Middle District of Florida, Orlando Division, for her pro bono work as court-appointed Inventory Attorney for over 72 Social Security federal court cases. She is a frequent lecturer on Social Security issues at national conferences on a wide range of issues. She obtained her law degree from Antioch School of Law in Washington, D.C. and previously worked as a legal services attorney for 20 years at Jacksonville Area Legal Aid, Inc. Ms. Bohr is active in The Florida Bar and is a Vice-Chair of the Federal Court Practice Committee and a member of the Continuing Legal Education Committee and the Executive Council of the Public Interest Law Section. She is past Chair of The Florida Bar Council of Sections, past Chair of the Public Interest Law Section, and past Chair of the Juvenile Court Rules Committee.

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