

LETTER OF APPROVAL FROM SOCIAL SECURITY

RECEIVED
FEB 23 2018
SC Court of Appeals

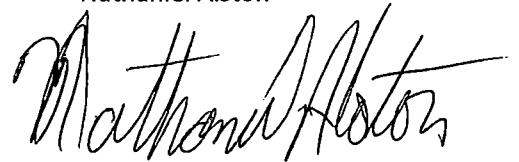
To The Courts of Appeals,

I had received my letter of Approval from Social Security Disability. I am sending the letter dated for February 9, 2018 with a Notice of decisions pages 9 of 9. I have an onset date from 2010 going forward. I would like for it to be reviewed and filed concerning my appeal.

February 21, 2018

Respectfully,

Nathaniel Alston

A handwritten signature in black ink that reads "Nathaniel Alston". The signature is written in a cursive style with a large initial "N" and a long horizontal stroke at the end.



SOCIAL SECURITY ADMINISTRATION

Office of Disability Adjudication and Review
SSA Oho Hearing Ofc
Suite 200
300 University Ridge
Greenville, SC 29601-3645

Date: February 9, 2018

Nathaniel Alston
150 Howell Circle
Apt 253
Greenville, SC 29615

Notice of Decision – Fully Favorable

I carefully reviewed the facts of your case and made the enclosed fully favorable decision. Please read this notice and my decision.

Another office will process my decision and decide if you meet the non-disability requirements for Supplemental Security Income payments. That office may ask you for more information. If you do not hear anything within 60 days of the date of this notice, please contact your local office. The contact information for your local office is at the end of this notice.

If You Disagree With My Decision

If you disagree with my decision, you may file an appeal with the Appeals Council.

How To File An Appeal

To file an appeal you must ask in writing that the Appeals Council review my decision. You may use our Request for Review form (HA-520) or write a letter. The form is available at www.socialsecurity.gov. Please put the Social Security number shown above on any appeal you file. If you need help, you may file in person at any Social Security or hearing office.

Please send your request to:

**Appeals Council
Office of Disability Adjudication and Review
5107 Leesburg Pike
Falls Church, VA 22041-3255**

Form HA-L76 (03-2010)

Suspect Social Security Fraud?
Please visit <http://oig.ssa.gov/r> or call the Inspector General's Fraud Hotline
at 1-800-269-0271 (TTY 1-866-501-2101).

See Next Page



Time Limit To File An Appeal

You must file your written appeal **within 60 days** of the date you get this notice. The Appeals Council assumes you got this notice 5 days after the date of the notice unless you show you did not get it within the 5-day period.

The Appeals Council will dismiss a late request unless you show you had a good reason for not filing it on time.

What Else You May Send Us

You may send us a written statement about your case. You may also send us new evidence. You should send your written statement and any new evidence **with your appeal**. Sending your written statement and any new evidence with your appeal may help us review your case sooner.

How An Appeal Works

The Appeals Council will consider your entire case. It will consider all of my decision, even the parts with which you agree. Review can make any part of my decision more or less favorable or unfavorable to you. The rules the Appeals Council uses are in the Code of Federal Regulations, Title 20, Chapter III, Part 404 (Subpart J) and Part 416 (Subpart N).

The Appeals Council may:

- Deny your appeal,
- Return your case to me or another administrative law judge for a new decision,
- Issue its own decision, or
- Dismiss your case.

The Appeals Council will send you a notice telling you what it decides to do. If the Appeals Council denies your appeal, my decision will become the final decision.

The Appeals Council May Review My Decision On Its Own

The Appeals Council may review my decision even if you do not appeal. They may decide to review my decision within 60 days after the date of the decision. The Appeals Council will mail you a notice of review if they decide to review my decision.

When There Is No Appeals Council Review

If you do not appeal and the Appeals Council does not review my decision on its own, my decision will become final. A final decision can be changed only under special circumstances. You will not have the right to Federal court review.

Your Right To Representation In An Appeal

If you appeal, you may choose to have an attorney or other person help you. Many representatives do not charge a fee unless you win your appeal. Groups are available to help you find a representative or, if you qualify, to give you free legal services. Your local Social Security office has a list of groups that can help you in this process.

If you get someone to help you with your appeal, you or that person must let the Appeals Council know. If you hire someone, we must approve the fee before he or she is allowed to collect it.

If You Have Any Questions

We invite you to visit our website located at www.socialsecurity.gov to find answers to general questions about social security. You may also call (800) 772-1213 with questions. If you are deaf or hard of hearing, please use our TTY number (800) 325-0778.

If you have any other questions, please call, write, or visit any Social Security office. Please have this notice and decision with you. The telephone number of the local office that serves your area is (877)274-5423. Its address is:

Social Security
319 Pelham Rd
Greenville, SC 29615-9911

Alice Jordan
Administrative Law Judge

Enclosures:
Decision Rationale



**SOCIAL SECURITY ADMINISTRATION
Office of Disability Adjudication and Review**

DECISION

IN THE CASE OF

Nathaniel Alston
(Claimant)

(Wage Earner)

CLAIM FOR

Period of Disability, Disability Insurance
Benefits, and Supplemental Security Income

247-21-4044

(Social Security Number)

JURISDICTION AND PROCEDURAL HISTORY

This case is before me on remand from the Appeals Council.

The claimant filed applications for Disability Insurance Benefits on October 12, 2010 and for Supplemental Security Income on October 9, 2012 alleging disability beginning March 22, 2010. On August 31, 2015, the claimant, through his attorney, stipulated to a closed period of disability from March 22, 2010 (the alleged onset of disability) to February 20, 2014 (Ex 30E). Based upon the claimant's stipulation, on August 31, 2016, I issued a Fully Favorable Decision finding the claimant disabled from March 22, 2010 (the alleged onset of disability) to February 20, 2014 (Ex 17A). The record reflects that claimant received disability benefits for the period of March 22, 2010 through February 2014 (Ex 21D).

On October 31, 2016, the claimant requested review by the Appeals Council, stating that his lawyer had made a mistake in having him request a closed period (Ex 25B).

On January 30, 2017, the Appeals Council vacated the ALJ decision only with respect to the issue of disability for the period of February 21, 2014 and onward and remanded the claim for further consideration of the unadjudicated period (Ex 18A). Hence, at issue is whether the claimant is disabled from **February 21, 2014 to present**.

The claimant appeared and testified at a hearing held on August 23, 2017, in Greenville, SC. Benson Hecker, an impartial vocational expert, also appeared at the hearing. Although informed of the right to representation, the claimant chose to appear and testify without the assistance of an attorney or other representative.

The claimant submitted or informed the Administrative Law Judge about all written evidence at least five business days before the date of the claimant's scheduled hearing (20 CFR 404.935(a) and 416.1435(a)).

ISSUES

The issue is whether the claimant is disabled under sections 216(i), 223(d) and 1614(a)(3)(A) of the Social Security Act. Disability is defined as the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or combination of impairments that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months.

With respect to the claim for a period of disability and disability insurance benefits, there is an additional issue whether the insured status requirements of sections 216(i) and 223 of the Social Security Act are met. The claimant's earnings record shows that the claimant has acquired sufficient quarters of coverage to remain insured through June 30, 2015. Thus, the claimant must establish disability on or before that date in order to be entitled to a period of disability and disability insurance benefits.

After careful review of the entire record, I find that the claimant has been disabled from February 21, 2014, through the date of this decision. I also find that the insured status requirements of the Social Security Act were met as of the date disability is established.

APPLICABLE LAW

Under the authority of the Social Security Act, the Social Security Administration has established a five-step sequential evaluation process for determining whether an individual is disabled (20 CFR 404.1520(a) and 416.920(a)). The steps are followed in order. If it is determined that the claimant is or is not disabled at a step of the evaluation process, the evaluation will not go on to the next step.

At step one, I must determine whether the claimant is engaging in substantial gainful activity (20 CFR 404.1520(b) and 416.920(b)). Substantial gainful activity (SGA) is defined as work activity that is both substantial and gainful. If an individual engages in SGA, he is not disabled regardless of how severe his physical or mental impairments are and regardless of his age, education, or work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

At step two, I must determine whether the claimant has a medically determinable impairment that is "severe" or a combination of impairments that is "severe" (20 CFR 404.1520(c) and 416.920(c)). An impairment or combination of impairments is "severe" within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. An impairment or combination of impairments is "not severe" when medical and other evidence establish only a slight abnormality or a combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work (20 CFR 404.1522 and 416.922; Social Security Rulings (SSRs) 85-28 and 16-3p). If the claimant does not have a severe medically determinable impairment or combination of impairments, he is not disabled. If the claimant has a severe impairment or combination of impairments, the analysis proceeds to the third step.

At step three, I must determine whether the claimant's impairment or combination of impairments is of a severity to meet or medically equal the criteria of an impairment listed in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, 404.1526, 416.920(d), 416.925, and 416.926). If the claimant's impairment or combination of impairments is of a severity to meet or medically equal the criteria of a listing and meets the duration requirement (20 CFR 404.1509 and 416.909), the claimant is disabled. If it does not, the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, I must first determine the claimant's residual functional capacity (20 CFR 404.1520(e) and 416.920(e)). An individual's residual functional capacity is his ability to do physical and mental work activities on a sustained basis despite limitations from his impairments. In making this finding, I must consider all of the claimant's impairments, including impairments that are not severe (20 CFR 404.1520(e), 404.1545, 416.920(e), and 416.945; SSR 96-8p).

Next, I must determine at step four whether the claimant has the residual functional capacity to perform the requirements of his past relevant work (20 CFR 404.1520(f) and 416.920(f)). The term past relevant work means work performed (either as the claimant actually performed it or as it is generally performed in the national economy) within the last 15 years or 15 years prior to the date that disability must be established. In addition, the work must have lasted long enough for the claimant to learn to do the job and have been SGA (20 CFR 404.1560(b), 404.1565, 416.960(b) and 416.965). If the claimant has the residual functional capacity to do his past relevant work, the claimant is not disabled. If the claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

At the last step of the sequential evaluation process (20 CFR 404.1520(g) and 416.920(g)), I must determine whether the claimant is able to do any other work considering his residual functional capacity, age, education, and work experience. If the claimant is able to do other work, he is not disabled. If the claimant is not able to do other work and meets the duration requirement, he is disabled. Although the claimant generally continues to have the burden of proving disability at this step, a limited burden of going forward with the evidence shifts to the Social Security Administration. In order to support a finding that an individual is not disabled at this step, the Social Security Administration is responsible for providing evidence that demonstrates that other work exists in significant numbers in the national economy that the claimant can do, given the residual functional capacity, age, education, and work experience (20 CFR 404.1512(f), 404.1560(c), 416.912(f) and 416.960(c)).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After careful consideration of the entire record, I make the following findings:

- 1. The claimant's date last insured is June 30, 2015.**
- 2. The claimant has not engaged in substantial gainful activity since February 21, 2014, the effective alleged onset date (20 CFR 404.1520(b), 404.1571 *et seq.*, 416.920(b) and 416.971 *et seq.*).**

See Next Page

The claimant worked after the established disability onset date, but this work activity is part of the claimant's trial work period. The record reflects that claimant worked from February 2014 until December 2014 and stopped because he sustained a work related injury.

3. The claimant has the following severe impairments: disorder of the muscles, ligaments and fascia involving the bilateral shoulders, lumbar degenerative disc disease, borderline intellectual functioning, obesity, depression, and anxiety (20 CFR 404.1520(c) and 416.920(c)).

The above medically determinable impairments significantly limit the ability to perform basic work activities as required by SSR 85-28.

4. The claimant does not have an impairment or combination of impairments that meets or medically equals the severity of one of the listed impairments in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, 404.1526, 416.920(d), 416.925 and 416.926).

The claimant has the following degree of limitation in the four broad areas of mental functioning set out in the disability regulations for evaluating mental disorders and in the mental disorders listings in 20 CFR, Part 404, Subpart P, Appendix 1: a moderate limitation in understanding, remembering, or applying information, a moderate limitation in interacting with others, a moderate limitation in concentrating, persisting, or maintaining pace, and a moderate limitation in adapting or managing oneself.

The record does not establish the medical signs, symptoms, laboratory findings or degree of functional limitation required to meet or equal the criteria of any listed impairment and no acceptable medical source designated to make equivalency findings has concluded that the claimant's impairment(s) medically equal a listed impairment.

5. The claimant has the residual functional capacity to perform sedentary work as defined in 20 CFR 404.1567(a) and 416.967(a) except he must be allowed to change position at the work station, one-time an hour, he can never climb ladders/ropes/scaffolds, occasionally climb steps, stoop, crouch, kneel and crawl and frequently balance. He can occasionally reach overhead with bilateral upper extremities, occasionally do fine and gross manipulation with left upper, frequently do fine and gross manipulation with right upper extremity. He must avoid concentrated exposure to hazards. He can perform simple, routine tasks. Due to chronic pain, he is expected to miss at least three-days or more of work a month.

In making this finding, I have considered all symptoms and the extent to which these symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence, based on the requirements of 20 CFR 404.1529 and 416.929 and SSR 16-3p. I also considered opinion evidence in accordance with the requirements of 20 CFR 404.1527 and 416.927.

In considering the claimant's symptoms, I must follow a two-step process in which it must first be determined whether there is an underlying medically determinable physical or mental impairment(s)--i.e., an impairment(s) that can be shown by medically acceptable clinical or laboratory diagnostic techniques--that could reasonably be expected to produce the claimant's pain or other symptoms.

Second, once an underlying physical or mental impairment(s) that could reasonably be expected to produce the claimant's pain or other symptoms has been shown, I must evaluate the intensity, persistence, and effects of the claimant's symptoms to determine the extent to which they limit the claimant's work-related activities. For this purpose, whenever statements about the intensity, persistence, or functionally limiting effects of pain or other symptoms are not substantiated by objective medical evidence, I must consider other evidence in the record to determine if the claimant's symptoms limit the ability to do work-related activities.

The claimant alleges that he was unable to work because of a right shoulder injury sustained on the job in 2010, status-post two shoulder surgeries with residual pain and limitation of motion. He returned to work in February 2014, and injured his left shoulder in a work-related incident and is diagnosed with left rotator cuff tear and tendonitis. Although left shoulder surgery is recommended, he is waiting on Workers Compensation to approve the surgery. He also experiences chronic back pain, depression and anxiety related to poor adjustment to pain and inability to work.

The claimant's symptoms are reasonably consistent with the medical evidence and other evidence in the record. MRI imaging of the left shoulder dated January 12, 2015 showed partial type II AC tear (Ex 38F/2). Orthopedic records dated January 12, 2015 note that claimant is seen following left shoulder injury on December 13, 2014 with weakness in supraspinatus, deltoid and ER muscles. Claimant is referred for physical therapy with restrictions of no overhead use of arm and no lifting more than 10-pounds (Ex 46F/7). Follow-up records dated August 17, 2015 note that claimant has tenderness over the superior and lateral aspect of the left shoulder with pain on range of motion (Ex 46F/4). Claimant is advised that left shoulder arthroscopy with a subacromial decompression and a distal clavicle resection is an appropriate treatment course and he will be scheduled for surgery, pending workers' compensation approval (Ex 46F/2).

Orthopedic records of John Keith, M.D., dated May 22, 2015 note that claimant presents with severe unremitting pain in left shoulder, with arm in a sling and limited ability to evaluate shoulder because of severe pain. Claimant is assessed with left shoulder pain that is out of proportion to clinical findings (Ex 51F/2).

In terms of claimant's obesity, the record establishes that claimant is 6 tall and weighed about 300 pounds with a BMI of 34.7 during the period in question. Pursuant to Social Security Ruling 02-lp, I find obesity severe and I have considered it in combination with claimant musculoskeletal impairments and restricted him to a range of sedentary work. In terms of claimant's borderline intellectual functioning, academic records reflect that claimant repeated several grades and was in special education classes (Ex 36F). Educational testing administered in January 1978, at age 6 shows a Full Scale IQ of 69 (Ex 36F/2). On the WATS-IV administered

in June 2012, the claimant attained a Full Scale IQ of 73, consistent with borderline intellectual functioning (Ex 22F/4).

In terms of claimant's depression and anxiety, psychological records note that claimant reports a significant decline in his emotional health since his shoulder injury. Hospital records dated October 12, 2012 note that claimant presented with severe symptoms of depression including auditory hallucinations and suicidal ideation, reporting recent relapse to cocaine, homelessness, treated for post traumatic stress disorder and chronic pain, and "I have no place to go" (Ex 23F/5). Mental health records reflect admission into treatment in October 8, 2012 following hospital treatment for suicidal ideation. Claimant is assessed with post-traumatic stress disorder, mood disorder, and personality disorder.

Follow-up records dated December 20, 2012, note improvement in irritability and auditory hallucinations with Seroquel, but claimant continues to report chronic right arm pain (Ex 29F/14). When seen in follow-up on April 19, 2013, claimant reported continuing sobriety from illicit substances, but continues to struggle with poor adjustment to chronic pain and mood instability (Ex 37F/4). Claimant describes his mood as either sad or angry most of the time. He says he is having a very difficult time just trying to live. He feels detached from the world and reports that he is not the same person he used to be. The claimant says that he has lost all focus, motivation and determination. He has gained 25 pounds over the past few years because of inactivity and poor food choices. The claimant admits to thoughts of hurting himself because he feels robbed of his past accomplishments. He has thoughts of hurting others, thinking that they are making fun of him, but denies any present intention of hurting himself or others. He complains of symptoms of anxiety, such as shortness of breath and feeling as though the walls are closing in on him. On mental status exam, claimant presents with depressed mood and anxious affect. He could perform serial 3's but did so slowly and with the use of his fingers and could recall zero of 3 objects after 10-minutes (Ex 22F).

In terms of claimant's chronic shoulder pain and back pain, treatment records from claimant's treating pain management provider, Dr. Loudermilk, reflect that claimant has been treated for chronic left shoulder pain since May 2015 and he continues to be followed for chronic pain. Treatment records dated June 30, 2017 note that claimant is followed for chronic low back pain and severe left shoulder pain due to rotator cuff tear and continues to await scheduling of left shoulder surgery (Ex 56F/2). Despite treatment with narcotic pain medications, antidepressant and anti-anxiety medications, claimant continues to experience chronic pain, depression and anxiety. Claimant is assessed with chronic left shoulder pain secondary to rotator cuff tear, mild lumbar facet arthropathy with chronic mechanical low back pain, and chronic depression, anxiety and mood irritability secondary to chronic pain (Ex 56F/2).

After careful consideration of the evidence, I find that the claimant's medically determinable impairments could reasonably be expected to cause the alleged symptoms. The claimant's statements concerning the intensity, persistence and limiting effects of these symptoms are reasonably consistent with the medical evidence and other evidence in the record for the reasons explained in this decision.

pursuant to Social Security Ruling 96-8p and the functional limitations described by Dr. Loudermilk, that claimant is expected to miss at least three-days of work a month due to chronic pain, that there are no jobs existing in significant numbers that the claimant is capable of performing.

Accordingly, a finding of "disabled" is appropriate under the framework of the above-cited rule.

11. The claimant has been under a disability as defined in the Social Security Act since February 21, 2014, the effective alleged onset date of disability (20 CFR 404.1520(g) and 416.920(g)).

DECISION

Based on the application for a period of disability and disability insurance benefits protectively filed on October 12, 2010, the claimant has been disabled under sections 216(i) and 223(d) of the Social Security Act since February 21, 2014.

Based on the application for supplemental security income filed on February 19, 2013, the claimant has been disabled under section 1614(a)(3)(A) of the Social Security Act since February 21, 2014.

The component of the Social Security Administration responsible for authorizing supplemental security income will advise the claimant regarding the nondisability requirements for these payments and, if the claimant is eligible, the amount and the months for which payment will be made.

Notably, claimant earned wages that exceeded substantial gainful activity in the months of March 2014 (1st Quarter \$1,352), 2nd quarter of 2014 – \$6,297, 3rd quarter - \$7,060 and 4th quarter - \$5,011 (Exs 12D and 21D). As claimant's work activity was longer than 6-months, this work activity is not an unsuccessful work attempt and is considered SGA (Ex 18A) and will be evaluated under the guidelines of the trial work period and extended period of eligibility as provided in SSA - POMS: DI 13010.035.

As medical improvement is expected with recommended rotator cuff surgery, a continuing disability review is recommended in 12 months.

The workers' compensation offset provisions at 20 CFR 404.408 may be applicable.

/s/ Alice Jordan

Alice Jordan
Administrative Law Judge

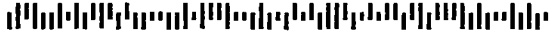
February 9, 2018

Date



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Greenville, SC 29601

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Nathaniel Alston
150 Howell Circle
Apt 253
Greenville, SC 29615



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PROOF OF SERVICE OF SOCIAL SECURITY LETTER OF APPROVAL

THE STATE OF SOUTH CAROLINA

In The Courts of Appeals

Appellate Case No. 2017-002126

Nathaniel Alston

Appellant,

v.

All My Sons Moving and Storage Employer

And Vanliner Insurance Carrier

Respondent.

PROOF OF SERVICE

I certify that I served the Letter of Approval from Social Security to George Gallagher at Speed, Seta, Martin, Trivett & Stubley, LLC, PO Box 11669, Columbia, South Carolina 29211 and Court Administration, 1015 Sumter St #200, Columbia, South Carolina 29201 and South Carolina Court of Appeals, Jenny Abbott Kitchings, Clerk, PO Box 11629, Columbia, South Carolina 29211, regarding the Letter of Approval from Social Security received on February 21, 2018.

February 21, 2018.

s/ Nathaniel Alston

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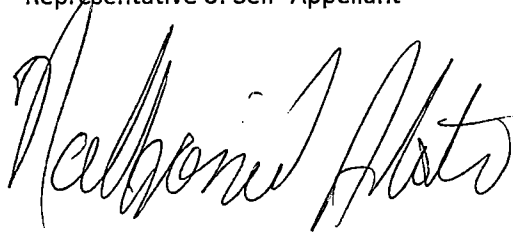
Nathaniel Alston

150 Howell Cir Apt 253

Greenville, South Carolina 29615

(864) 593-3427

Representative of Self- Appellant

A handwritten signature in black ink that reads "Nathaniel Alston". The signature is written in a cursive style with a large initial 'N' and 'A'.

Nathaniel Aston
150 Howell Cir Apt 253
Greenville, SC 29615



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SC Court of Appeals

South Carolina Courts of Appeals
Jenny Abbott Kitchings, Clerk
PO Box 11629
Columbia, SC 29211

