

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After careful consideration of the entire record, the undersigned makes the following findings:

1. The claimant's date last insured is December 31, 2008.
2. The claimant has not engaged in substantial gainful activity since June 20, 2007, the amended alleged onset date (20 CFR 404.1520(b) and 404.1571 *et seq.*).
3. The claimant has the following severe impairments: multilevel lumbar degenerative disc disease with facet joint arthritis and radiculopathy, mild annular disc bulge at L5/S1, and left neural stenosis; possible small disc herniation to the left with desiccation of L2/3, L3/4, and L4/5; bilateral upper and lower paresthesia; right sacroiliac dysfunction; chronic lower back pain; chronic cervicgia; disc herniation; Hepatitis C; diabetes; history of rotator cuff tear; hypertensive heart disease; and history of trigger finger surgery (20 CFR 404.1520(c)).

These impairments are established by the medical evidence and are "severe" within the meaning of the Regulations because they cause significant limitation in the claimant's ability to perform basic work activities.

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

Neither the claimant nor his legal representative alleged that the claimant has an impairment either singly or in combination, which meets or medically equals any of the listed impairments in 20 CFR Part 404, Subpart P, Appendix 1, and the undersigned finds that the record does not establish the existence of any such impairment.

5. The claimant has the residual functional capacity to perform light work as defined in 20 CFR 404.1567(b) except the claimant is limited to occasional climbing, balancing, stooping, kneeling, crouching, and crawling.

In making this finding, the undersigned considered all symptoms and the extent to which these symptoms can reasonably be accepted as consistent with the objective medical evidence and

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other evidence, based on the requirements of 20 CFR 404.1529 and SSRs 96-4p and 96-7p. The undersigned has also considered opinion evidence in accordance with the requirements of 20 CFR 404.1527 and SSRs 96-2p, 96-6p and 06-3p.

The claimant reported that he feels as though, someday soon, he will not be able to walk. He noted that he is always in pain (Exhibit C4E), and the claimant's wife reported that he is in so much pain that has difficulty sleeping (Exhibit C3E). The claimant's wife also noted that the claimant is unable to help with the laundry, dishes, or vacuuming because of his pain (Exhibit C3E), and the claimant reported that his grandson must help with mowing the yard and household repair work (Exhibit C4E).

The medical evidence of record indicates that the claimant has a history of non-insulin dependent diabetes mellitus, Hepatitis C, hyperlipidemia, hypertensive heart disease, cervical degenerative disc disease, and lumbar degenerative disc disease (Exhibits C2F, C7F, C8F, C11F, and C12F). The claimant underwent a left shoulder rotator cuff repair in 2004, a trigger finger surgery in 2007, and a C5-6 cervical fusion in 2004 (Exhibit C10F).

On February 2, 2007, the claimant was diagnosed with lumbar degenerative disc disease, right leg paresthesia, and right sacroiliac dysfunction. The claimant experienced numbness and tingling in his right leg. He also described radiating pain and noted that the pain in his back had increased in severity, mostly over the right sacroiliac area. On August 13, 2007, the claimant was diagnosed with C5-6 degenerative disc disease, and on January 4, 2008 the claimant was diagnosed with chronic cervicalgia, chronic lower back pain, and bilateral upper and lower extremity paresthesia (Exhibit C2F).

The claimant reported that he experiences constant and burning lower back pain, requiring him to change positions frequently to lessen the pain (Exhibit C7F). The claimant testified that he suffers from chronic pain and swelling in his neck and lower back, as well as numbness and tingling in his right leg. On November 24, 2008, the claimant reported that his pain ranged from a 6 to a 10, out of 10. He explained that the pain intensified with housework, lifting, or bending. He reported that the pain will shoot down his leg. The claimant was diagnosed with arthritis of the lumbosacral spine and degenerative disc disease of the lumbosacral spine with radiculopathy (Exhibit C11F).

An August 2007 electrocardiography demonstrated sinus rhythm with probable left ventricular hypertrophy and T inversions laterally. Scott Coatsworth, M.D., noted that the abnormal electrocardiogram was most likely secondary to the claimant's hypertension (Exhibit C1F).

After considering the evidence of record, the undersigned finds that the claimant's medically determinable impairment could reasonably be expected to produce the alleged symptoms, and that the claimant's statements concerning the intensity, persistence and limiting effects of these symptoms are generally credible.

The State agency medical consultants' physical assessments of the claimant's Residual Functional Capacity are given great weight because they are consistent with the record as a whole.

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6. The claimant is unable to perform any past relevant work (20 CFR 404.1565).

The demands of the claimant's past relevant work exceed the residual functional capacity.

7. Applying the age categories non-mechanically, and considering the additional vocational adversities in this case, the claimant was an individual of advanced age on the established disability onset date (20 CFR 404.1563).

8. The claimant has a limited education and is able to communicate in English (20 CFR 404.1564).

9. The claimant's acquired job skills do not transfer to other occupations within the residual functional capacity defined above (20 CFR 404.1568).

10. Considering the claimant's age, education, work experience, and residual functional capacity, there are no jobs that exist in significant numbers in the national economy that the claimant can perform (20 CFR 404.1560(c) and 404.1566).

In determining whether a successful adjustment to other work can be made, the undersigned must consider the claimant's residual functional capacity, age, education, and work experience in conjunction with the Medical-Vocational Guidelines, 20 CFR Part 404, Subpart P, Appendix 2. If the claimant can perform all or substantially all of the exertional demands at a given level of exertion, the medical-vocational rules direct a conclusion of either "disabled" or "not disabled" depending upon the claimant's specific vocational profile (SSR 83-11).

Even if the claimant had the residual functional capacity for the full range of light work, considering the claimant's age, education, and work experience, a finding of "disabled" would be directed by Medical-Vocational Rule 202.02.

11. The claimant has been under a disability as defined in the Social Security Act since June 20, 2007, the amended alleged onset date of disability (20 CFR 404.1520(g)).

DECISION

Based on the application for a period of disability and disability insurance benefits filed on March 13, 2008, the claimant has been disabled under sections 216(i) and 223(d) of the Social Security Act since June 20, 2007.

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