

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 June 30, 2011.
2. The claimant has not engaged in substantial gainful activity since January 1, 2006, the alleged onset date (20 CFR 404.1520(b), 404.1571 *et seq.*, 416.920(b) and 416.971 *et seq.*).
3. The claimant has the following severe impairments: hemorrhagic cystitis; radiation cystitis. (20 CFR 404.1520(c) and 416.920(c)).

The above impairments cause more than minimal functional limitations.

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, 404.1526, 416.920(d), 416.925 and 416.926).
5. The claimant has the residual functional capacity to perform less than a full range of light work as defined in 20 CFR 404.1567(b) and 416.967(b). Particularly, the claimant can lift and/or carry twenty pounds occasionally, ten pounds frequently; stand/walk 2 hours at a time, 6 hours per day; sit 2 hours at a time, 6 hours per day; occasionally climb ropes, ladders, scaffolds; and needs a bathroom break every 15 minutes.

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 other evidence, based on the requirements of 20 CFR 404.1529 and 416.929 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 416.927 and SSRs 96-2p, 96-6p and 06-3p.

The claimant testified at the hearing as to her impairments and associated symptoms and/or limitations. The claimant confirmed she underwent radiations which caused and/or exacerbated her urinary problems. She testified she has to go to the bathroom, on average, every 15 minutes. She also stated she has accidents on a daily basis, and blood in her urine, causing her to refrain from going out in public. The claimant indicated she has already been to the hospital for a blood transfusion. The claimant honestly testified she has no problem with sitting and standing, but that her main problem is the frequency of her need to go to the bathroom. She has even missed doctors' appointments because of accidents. She did indicate however that she cannot lift more than 20 pounds and is somewhat limited in climbing stairs. Finally, the claimant, as previously noted, stated she could not make it 15 minutes without a bathroom break, but did not need a

break during the hearing. Nevertheless, the claimant credibly testified she had not had anything to drink for 24 hours before in preparation for the duration of the hearing.

In terms of the claimant's work history, the evidence of record confirmed the claimant's past work included being a manager of fast food services. Furthermore, in assessing the credibility of the claimant's submitted work history report regarding her past work, it is noted that the claimant had a somewhat consistent work record up until the time of her disability, indicated by good earnings in most of the years. Thus, in addition to her testimony, the undersigned finds the claimant's work history provides additional support as to the claimant's credibility.

The claimant's medical records confirm the claimant was diagnosed with hematuria during the relevant period and the evidence indicates her impairments have been occurring since the alleged onset date. The claimant complained of many chronic symptoms, including but not limited to: pelvic pain and vaginal bleeding, lower extremity tingling; diarrhea, dysuria, etc. The claimant was also diagnosed with cervical cancer for which she was to receive laser vaporization instead of surgical excision of a vulvar lesion. Nevertheless, an excision was performed in September 2006. Nevertheless, the claimant continued to complain of symptoms of urinary urge incontinence. (Ex. 12F).

The claimant's treating physician, Joseph Costa, M.D., of at least 15 months filled out a physical residual functional capacity questionnaire during the relevant period under adjudication. Dr. Costa indicated the claimant had hemorrhagic cystitis, recurrent gross hematuria with the need for at least one blood transfusion, and radiation cystitis. Dr. Costa explained the gross hematuria results in anemia and persistent urge incontinence and that the claimant has responded poorly to all urologic interventions. (Ex. 9F).

As for limitations, Dr. Costa opined the claimant's condition would occasionally interfere with her attention and concentration and that she could only be tolerate "moderate stress." The claimant would also need freedom to be treated for when her bleeding would recur. As to the claimant's exertional limitations, Dr. Costa opined the claimant could sit more than two hours at a time, stand more than 2 hours at a time, and stand/walk 6 hours out of an 8-hour workday. He also opined the claimant could occasionally carry 20 pounds, and frequently carry ten pounds. Dr. Costa also opined the claimant was limited to only occasional crouching and climbing stairs, and "rarely" climbing ladders. Most importantly, Dr. Costa opined the claimant would need to take unscheduled breaks at unpredicted frequency. (Ex. 9F). Dr. Costa's opinion is given significant weight as it is consistent with the overall medical evidence of record and claimant's testimony.

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 are given little weight because the State agency consultants did not adequately consider the claimant's subjective complaints or the combined effect of the claimant's impairments.

However, the State agency psychological consultants' mental assessments are given great weight because they are consistent with the record as a whole.

6. The claimant is unable to perform any past relevant work (20 CFR 404.1565 and 416.965).

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

7. The claimant was an individual closely approaching advanced age on the established disability onset date (20 CFR 404.1563 and 416.963).

8. The claimant has at least a high school education and is able to communicate in English (20 CFR 404.1564 and 416.964).

9. The claimant's acquired job skills do not transfer to other occupations within the residual functional capacity defined above (20 CFR 404.1568 and 416.968).

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), 404.1566, 416.960(c), and 416.966).

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). When the claimant cannot perform substantially all of the exertional demands of work at a given level of exertion and/or has nonexertional limitations, the medical-vocational rules are used as a framework for decisionmaking unless there is a rule that directs a conclusion of "disabled" without considering the additional exertional and/or nonexertional limitations (SSRs 83-12 and 83-14). If the claimant has solely nonexertional limitations, section 204.00 in the Medical-Vocational Guidelines provides a framework for decisionmaking (SSR 85-15).

If the claimant had the residual functional capacity to perform the full range of light work, considering the claimant's age, education, and work experience, a finding of "not disabled" would be directed by Medical-Vocational Rule 202.14. To determine the extent to which the claimant's additional limitations erode the unskilled light occupational base, the Administrative Law Judge asked the vocational expert whether jobs exist in the national economy for an individual with the claimant's age, education, work experience, and residual functional capacity. The vocational expert testified that given all of these factors there are no jobs in the national economy that the individual could perform.

Based on the testimony of the vocational expert, the undersigned concludes that, considering the claimant's age, education, work experience, and residual functional capacity, 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 January 1, 2006, the 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 filed on August 24, 2007, the claimant has been disabled under sections 216(i) and 223(d) of the Social Security Act since January 1, 2006.

Based on the application for supplemental security income filed on August 24, 2007, the claimant has been disabled under section 1614(a)(3)(A) of the Social Security Act since January 1, 2006.

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 eligible, the amount and the months for which payment will be made.