

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE-OPELOUSAS DIVISION**

<b>CLEMENT DALE ALEXANDER</b>	<b>*</b>	<b>CIVIL ACTION NO. 06-1694</b>
<b>VERSUS</b>	<b>*</b>	<b>JUDGE DOHERTY</b>
<b>COMMISSIONER OF SOCIAL SECURITY</b>	<b>*</b>	<b>MAGISTRATE JUDGE HILL</b>

**REPORT AND RECOMMENDATION**

This social security appeal was referred to me for review, Report and Recommendation pursuant to this Court's Standing Order of July 8, 1993. Clement Dale Alexander, born September 23, 1952, filed an application for a period of disability and disability benefits on July 16, 1993, alleging an onset date of July 1, 1992. After a hearing before an Administrative Law Judge ("ALJ"), claimant was awarded disability insurance benefits on October 27, 1995, based on a finding that his flat feet and mental impairments precluded his performing substantial gainful activity. (Tr. 23-31).

On continuing disability review, Disability Determinations Service determined that medical improvement had occurred, and that claimant's disability ceased as of July 1, 2004. (Tr. 21-22). After denial of his appeal at the administrative level, claimant filed for judicial review with this Court.

## FINDINGS AND CONCLUSIONS

After a review of the entire administrative record and the briefs filed by the parties, and pursuant to 42 U.S.C. § 405(g), I find that there is not substantial evidence in the record to support the Commissioner's finding that the claimant was not disabled and that this case should be remanded for further proceedings.

In fulfillment of F.R.Civ.P. 52, I find that this case should be remanded for further proceedings, based on the following:<sup>1</sup>

**(1) Report from Dr. Sam H. Benbow dated January 16, 1999.** Claimant stated that he drank at least one six-pack of beer daily. (Tr. 180). On examination, he was depressed and distant. He got up on three different occasions with tears on his face. His affect was restricted. Judgment and insight appeared fairly good.

Dr. Benbow stated that claimant appeared to be responding to extremely difficult environmental events, including his marriage and "Gulf War syndrome." (Tr. 181). He had developed a major depression, which interfered with his interpersonal relationships, interest and activity levels, and pace and concentration to a severe degree. He concluded that claimant's depression would continue as long as the syndrome existed, and that he would remain severely impaired. The diagnostic

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<sup>1</sup>Although all of the records were reviewed by the undersigned, only these relating to the cessation of benefits are summarized herein. The comparison point decision is May 24, 1999. (Tr. 15, 365).

impression was major depression, single episode, severe, and Gulf War syndrome. Claimant was judged competent to manage his own affairs.

**(2) Report by Dr. Glennal Verbois dated May 18, 1999.** Claimant complained of chronic low back pain on the right, bilateral knee pain greater on the right, and bilateral foot pain. (Tr. 183). He was status-post a low back injury he sustained while lifting weights in the military in the early 1980s, and a right clavicle injury sustained in a motor vehicle accident on September 3, 1998. He also reported having flat feet and heel spurs.

Claimant reported that he smoked one pack of cigars and drank a six-pack of alcohol daily. (Tr. 184). He stated that he had lost 90 pounds over the previous two years. He also complained of daily sinus headaches, coughing and shortness of breath, and intermittent indigestion.

On examination, claimant was 6 feet 2 inches tall, and weighed 194 pounds. His blood pressure was 112/78. He was alert and oriented times four.

Heart had regular rate and rhythm, and lungs were clear. Extremities had no edema or atrophy. Range of motion was within functional limits.

The knees had crepitus with range of motion, but no redness, warmth, or effusion. Claimant had no instability. He had good range of motion.

Claimant's muscle strength was 5/5. (Tr. 185). Sensation was intact. He was able to stand on his heels and toes.

Right hip range of motion was normal, and left ROM resulted in knee pain. Claimant had negative straight leg raising. Deep tendon reflexes were normal. Gait was non-antalgic.

Lumbosacral x-rays revealed small spurs at L3, 4, and 5. The lumbosacral space was slightly narrowed. Knee x-rays showed a very small spur at the medial border of the tibial plateau.

Dr. Verbois' impression was that claimant had some very mild degenerative lumbar changes, which would be expected for his age. He had good range of motion in the lumbar spine, but had to take his time because of pain. He also apparently had plantar fasciitis bilaterally, which apparently had responded in the past to cortisone injections and orthotics in his shoes.

Claimant was able to see, hear, and communicate effectively. (Tr. 186). He did not ambulate with an assistive device. He was able to handle and feel things.

Dr. Verbois opined that claimant might have difficulty with activities like repetitive stair climbing or very prolonged standing or walking. He found that claimant was able to sit without difficulty. He stated that claimant should be able to lift and carry moderate loads without difficulty.

**(3) Records from Doctors Hospital of Opelousas dated September 3, 1998 to August 22, 2003.** On September 3, 1998, claimant complained of left chest wall pain after being involved in a motor vehicle accident. (Tr. 209). He had alcohol on his breath, and indicated that he had consumed a beer. The impression was a contusion of the left upper chest area. X-rays of the shoulder were normal. (Tr. 205).

On February 11, 2003, claimant complained of intermittent left frontal headaches for one week. (Tr. 201). A CT scan of the brain was negative. (Tr. 203). The impression was a cluster headache. (Tr. 200).

On April 4, 2003, claimant complained of swelling to the left knee. (Tr. 197). His knee was evacuated. (Tr. 196).

On August 22, 2003, claimant complained of a left shoulder and right hip injury with pain. (Tr. 191). X-rays were normal. (Tr. 192-93).

**(4) Records from Metoyer Family Medical Center dated January 23, 2003 to March 22, 2004.** Claimant was seen for chronic low back pain with radiculopathy, pain and swelling to the right elbow, left knee pain and swelling, sinus congestion, and pain and swelling to the left ankle. (Tr. 211-19). He was prescribed Lortab and Ultracet. (Tr. 211, 213-15, 18-19).

**(5) Consultative Psychological Evaluation by Sandra B. Durdin, Ph.D. dated May 11, 2004.** On examination, claimant's eyes were "somewhat blood shot

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