

ATTACHMENT C

RESPONDENT(S) ARGUMENT(S)

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August 17, 2020

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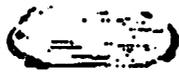
Hi I would like to submit the Social Security Administration Office of Hearings Operations on July 24, 2020 I had a telephone hearing with Judge Julia Marani with review of my present and past medical records Judge Marani found the hearing in me Fully Favorable. I am asking Calpers to take Social Security Administration decision a Government Agency that has great creditability and also find that I am undable to do my normal and usual job and grant me a full Medical Retirement I am overwhelmed trying to figure thngs out I have no Medical, Vision, or Dental for my children I am now able to have some income that I have been without since October 2018 but I still dont have my Benefits I started working for the State of California June 14, 1992 all the way up to October 2016 I am cntitled to my Benefits that I work so hard for. I am attaching Notice of Decision from Social Security Administration dated July 31, 2020.

my address and social security number have been blacked out they are on file.

Thank You

Tawanna McFarland



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You should include the social security number(s) shown on this order on any papers that you send us.

Is/ Julia Mariani

Julia Mariani
Administrative Law Judge

July 31, 2020

Date

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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) and 404.1565). If the claimant has the residual functional capacity to do her 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)), the undersigned must determine whether the claimant is able to do any other work considering her residual functional capacity, age, education, and work experience. If the claimant is able to do other work, she is not disabled. If the claimant is not able to do other work and meets the duration requirement, she 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 and 404.1560(c)).

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, 2022 (9D/1).
2. The claimant has not engaged in substantial gainful activity (SGA) since June 16, 2017, the amended alleged onset date (20 CFR 404.1520(b) and 404.1571 *et seq.*).

The claimant worked after the established disability onset date, but this work activity did not rise to the level of substantial gainful activity. The claimant earned \$460.00 in 2018, less than SGA (2D-9D).

3. The claimant has the following severe impairments: degenerative disc disease (DDD); status post tear of posterior horn medial meniscus, right knee; status post arthroscopic repair of right knee (6F/2); status post tear of medial meniscus, partial tear of ACL, and popliteal cyst, left knee (8F/4); and status post arthroscopic repair of meniscal tears, chondroplasty, left knee (26F/2) (20 CFR 404.1520(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 and 404.1526).

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08/24/2020 2:46PM (GMT-04:00)

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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 (RFC) to perform sedentary work as defined in 20 CFR 404.1567(a) except lift/carry 5 pounds occasionally and 2 pounds frequently; stand/walk 2 hours in an 8-hour workday; sit 6 hours in an 8-hour workday; requires an at-will sit-stand option; requires use of crutches for ambulation and balance; and could not climb, balance on uneven terrain, stoop, crouch, and crawl.

In making this finding, the undersigned has 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 SSR 16-3p. The undersigned also considered the medical opinion(s) and prior administrative medical finding(s) in accordance with the requirements of 20 CFR 404.1520c.

In considering the claimant's symptoms, the undersigned 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, the undersigned 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, the undersigned must consider other evidence in the record to determine if the claimant's symptoms limit the ability to do work-related activities.

In a disability report (Form SSA-3368) filed on February 26, 2019, the claimant alleged that she was unable to work due to both knees and a back injury (2E/2). She also said that her height was 5'7" and her weight was 186 pounds (2E/2). She stated that she stopped working on October 14, 2016, due to her conditions (2E/2). She reported that she worked as a psychiatric tech assistant (state hospital) from June 1992 to 1997, and as an office assistant (prison) from 1997 to October 2016 (2E/3; 12E). (See medications at 2E/4).

In an appeal disability report (Form SSA-3441) filed on July 15, 2019, the claimant stated that she still had chronic pain syndrome and left and right knee injuries from working at the Department of Corrections (5E/2). (See medications at 5E/4). She also said that she had a new orthopedic doctor (5E/2). Later, this was noted to be Dr. Laura Sciaroni (IPM Medical Group), an orthopedic surgeon (17E/3).

In an appeal disability report (Form SSA-3441) filed on November 21, 2019, the claimant stated that surgery was scheduled for December 20, 2019 for her left knee. She also stated that she fell

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and tore her right knee meniscus, and she was pending approval for right knee surgery (10E/2). (See medications at 10E/6-7). (See also remarks at 8E/1).

After careful consideration of the evidence, the undersigned finds 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.

The claimant is a younger individual, who completed two years of college (2E/3), and has a good work history (2D-9D). The claimant has had extensive medical treatment, including bilateral knee surgeries. She still has swelling in her knees. She still cannot walk without a cane and she even uses a cane at home. She has chronic pain that makes sleeping difficult and she is fatigued and takes naps daily.

The State agency found that the claimant had the following severe impairments: spine disorders and major joint dysfunction (4A/7). The State agency found that the claimant had the residual functional capacity for a modified range of light work with the ability to lift/carry 20 pounds occasionally and 10 pounds frequently; stand/walk 2 hours in an 8-hour workday; sit 6 hours in an 8-hour workday; occasionally climb ramps or stairs; never climb ladders, ropes or scaffolds; and occasionally balance, stoop, kneel, crouch or crawl (4A/10). The State agency did not make a determination as to whether the claimant could perform any past relevant work. However, the State agency found that the claimant could perform other work and, therefore, was not disabled using Rule 201.21 as a framework (4A/11). This is not persuasive. The State agency did not have the benefit of the updated evidence.

Based on claimant's remarks at 8E/1 dated November 9, 2019, the claimant started seeing Dr. Cai at Kaiser Vacaville in March 2016 (10F-11F). Dr. Cai referred her to physical therapy (PT) at Kaiser Vacaville. After no results from PT (and taking medication), Dr. Cai referred her to an orthopedic specialist at Kaiser Vacaville. The claimant said that the orthopedist told her that she needed surgery on her right knee, but he was not sure that the surgery would improve her right knee. She returned to Dr. Cai and she was eventually transferred to a doctor outside Kaiser. Dr. Robert Gomez started treating the claimant in May 2017. In June 2017, Dr. Gomez performed the claimant's right knee surgery. After surgery, she started PT and water therapy at NorthBay Physical Therapy. Dr. Gomez retired in about August 2018. The claimant was referred to Dr. Razi (IPM Medical Group). The claimant reported that she was still having pain. She also stated that she had at least two QME exams by Dr. Jennings (8E/1; 10F; 11F; 17F; 19F; 21F; 24F/79-81). Dr. Sciaroni performed the claimant's left knee surgery on December 20, 2019 (26F).

On June 16, 2017, the claimant underwent right knee arthroscopic partial medial meniscectomy, arthroscopic lateral release, major synovectomy of the anterior and patellofemoral compartments, and chondroplasty of the medial femoral condyle, performed by orthopedic surgeon, Dr. Robert A. Gomez at Canyon Pinole Surgery Center in Pinole California (6F/2-3; 18F/12). The records also document that the claimant notified Dr. Gomez's office that she fell around July 2017 and landed on her right hand with reported pain (18F/8; 17E/5). On July 6, 2018, Dr. Gomez said that he would refer the claimant to Dr. Toufan Razi for follow-up and consideration of epidural

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steroid injection. He also said that he would be closing his medical practice as of July 31, 2018 (18F/2; 8E/1; 6F; 17E/7; 18F).

The records from NorthBay Rehabilitation in Vacaville, California, at Exhibit 7F indicate that the claimant attended physical therapy, both before her right knee surgery in June 2017, and after the surgery, starting in September 2017, and continuing through March 2018.

On January 5, 2019, Qualified Medical Examiner (QME), Dr. Edward D. Jennings stated that the claimant was not capable of returning to her past work in her current physical condition (3F/11). Dr. Jennings stated that the claimant was restricted to standing, walking, keyboarding and sitting no longer than 1-2 hours without the ability to move and stretch. Dr. Jennings stated that the claimant was restricted completely from kneeling, crawling, climbing, forward bending and repetitive bending and twisting, and lifting should be limited to 5 pounds (3F/11). This is generally consistent with a finding of disability.

In a medical source statement (physical) dated March 20, 2019, Am Krista Halal, NP-C, BSN, MSN, with Integrated Pain Management (IPM), stated that the claimant could lift/carry 5 pounds both occasionally and frequently; stand/walk less than 2 hours in an 8-hour workday; uses a cane (for standing and walking), which is medically necessary due to antalgic gait; could sit less than 6 hours in an 8-hour workday (could sit for 30 minutes total), due to increased pain with prolonged sitting; needs to alternate sitting and standing due to increased pain with prolonged sitting or standing; could never climb, balance, stoop, kneel, crouch or crawl; could constantly reach, handle, finger and feel; and should avoid working at heights and with moving machinery (5F/3). (See also 4F). This is persuasive, as it is generally consistent with the record as a whole.

An MRI of the left knee dated May 21, 2019 showed a moderately large joint effusion and large 6 cm popliteal cyst; mild medial and medial aspect of the patellofemoral joint arthritis and cartilage fissuring and chondromalacia medial patellar facet and distal medial femoral condyle; meniscocapsular junction tear medial meniscus; chronic partial tear and thickening ACL; chronic thickening and sprain MCL; moderate insertional tendinosis and thickening quadriceps and patellar tendon; small insertional partial thickness tear quadriceps insertion; moderate prepatellar soft tissue edema or bursitis; and mild popliteus tendon tenosynovitis (8F/5; 24F/79).

An MRI of the right knee dated September 24, 2019 showed: 1. Medial meniscus posterior horn free margin blunting and irregularity may reflect postsurgical and/or free margin degeneration. No discrete linear tear or displaced fragment identified. 2. Lateral meniscus anterior horn possible tear with a longitudinal component seen at the inferior margin with possible extension to the periphery associated with a suspected parameniscal cyst without evidence of a displaced fragment. 3. Chronic MCL sprain. No evidence of acute ligamentous injury. 4. Chronic appearing tear and defect of the lateral patellar retinacula without patellar subluxation or abnormal alignment. 5. Mild chondromalacia patella with minimal fissuring and abnormal signal at the apex and medial facet but without a full-thickness defect. 6. Focal moderate to severe chondral loss at the posterior weightbearing surface of the medial femoral condyle. 7. Trace knee effusion and tiny Baker's cyst (6F/12; 24F/79).

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In a letter dated November 22, 2019, Dr. Laura Sciaroni stated that the claimant was scheduled to undergo surgery on December 20, 2019 and would be off work for about three months and during that time would be temporarily disabled (23F/2).

On December 20, 2019, the claimant underwent left knee arthroscopy with partial medial and lateral meniscectomies and chondroplasty in the medial and lateral compartments, performed by orthopedic surgeon, Dr. Laura Sciaroni at Pacific Heights Surgery Center in San Francisco, California (26F/2-3). Subsequently, the claimant attended physical therapy at Body in Balance Physical Therapy in Fairfield, California (27F).

In a medical source statement dated February 11, 2020, Dr. Laura Sciaroni, stated that the claimant had diagnoses of chronic pain syndrome and bilateral knee pain and the prognosis was fair (14F/2). Dr. Sciaroni stated that the claimant's pain was characterized as aching and constant, and becomes worse with any activity or movement. Dr. Sciaroni stated that the claimant had reduced range of motion in both knees. Dr. Sciaroni stated that the claimant could walk about a quarter block at a normal pace without rest or severe pain. She stated that the claimant could sit for two hours at a time before needing to get up. She stated that the claimant could stand for 10 minutes at a time before needing to sit down or walk around. She stated that the claimant could stand/walk for a total of less than two hours and sit for at least 6 hours total in an 8-hour workday. She stated that while engaging in standing/walking, the claimant must use a cane or other assistive device. She indicated that the claimant would sometimes need to lie down at unpredictable intervals during an 8-hour workday. She stated that the claimant could not lift or carry any weight in a competitive environment because the claimant has to use crutches. She stated that the claimant could never twist, stoop/bend, crouch/squat, climb ladders or climb stairs. She estimated that the claimant was likely to be absent from work due to her impairments or treatment about two days a month. She also stated that the claimant's impairments were reasonably consistent with the symptoms and functional limitations described in this evaluation (14F/4). This is persuasive, as it is consistent with the record as a whole.

In a post-operative visit dated March 23, 2020, Dr. Sciaroni said that the claimant was restricted to standing, walking, keyboarding and sitting no longer than 1-2 hours without the ability to move and stretch. She is restricted completely from kneeling, crawling, climbing, forward bending and repetitive bending and twisting. Lifting should be limited to 5 pounds (24F/27).

On June 1, 2020, Dr. Sciaroni said that the claimant was using a cane because her right knee was buckling. The claimant was also using a right knee brace. She had been doing her PT and home exercise. She was doing pool exercises, but the pool was closed due to the pandemic (24F/3).

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

The vocational expert testified that the claimant's past relevant work was described as follows: composite: supply clerk (DOT 222.387-058) heavy and semiskilled with an SVP 4 and medium as performed; guard (DOT 372.667-018) medium and semiskilled with an SVP 4; and payroll clerk (DOT 215.382-014) sedentary and semiskilled with an SVP 4. As required by SSR 82-62, this work was substantial gainful activity, was performed long enough for the claimant to achieve average performance, and was performed within the relevant period. The vocational

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expert testified that the demands of the claimant's past relevant work exceed the residual functional capacity. The undersigned agrees and finds that the claimant is unable to perform any past relevant work as actually or generally performed.

7. The claimant was a younger individual age 45-49 on the established disability onset date (20 CFR 404.1563).

8. The claimant has at least a high school education (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).

If the claimant had the residual functional capacity to perform the full range of sedentary work, considering the claimant's age, education, and work experience, a finding of "not disabled" would be directed by Medical-Vocational Rule 201.21. To determine the extent to which the claimant's additional limitations erode the unskilled sedentary 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 June 16, 2017, 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 February 8, 2018, the claimant has been disabled under sections 216(i) and 223(d) of the Social Security Act since June 16, 2017.

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

/s/ Julia Mariani

Julia Mariani
Administrative Law Judge

July 31, 2020

Date