

This writing sample is excerpted from a brief for an SSI remand hearing. The claimant was a minor when he was first denied SSI, and has since turned 18. The beginning of the brief introduced the procedural history, and argued for the childhood benefits. This sample resumes, arguing for continuing adult benefits. This sample was edited to redact the Claimant's name.

### **Adult Benefits - Determining Disability**

In addition to the child benefits outlined above, we ask that Claimant be awarded benefits as an adult. To determine eligibility for adult benefits, the SSA will perform a "five-step sequential evaluation process." 20 C.F.R. § 416.920. If the SSA can make a determination of disability or not at any given step, the evaluation ends there, otherwise the next step in the sequence will be examined. Id.

#### **A. Step One - Substantial Gainful Activity**

To qualify for adult benefits, Claimant must not be working nor doing substantial gainful activity (SGA). 20 CFR § 416.920(a)(4)(i). Work is considered SGA for a non-blind adult if he earned at least \$1,000 per month for the years 2010 and 2011. Although Claimant was briefly employed in the past, part-time at McDonald's, his income at the time did not qualify as SGA. Claimant currently is not employed, and therefore is not earning any SGA. He therefore moves onto Step Two.

#### **B. Step Two - Severity**

Once it is established an adult is not doing SGA, the severity of the physical, mental, or combination of impairments is evaluated. 20 CFR § 416.920(a)(4)(ii). The standard for severity as an adult is the same as the standard for children. There has been no substantial improvement in Claimant's ability to perform basic work activities since his childhood. As stated above, Claimant was already found to meet this severity standard several times.

#### **C. Step Three - Meeting, or Medically Equaling, a Social Security Listing**

Once it is established that the impairments are severe, the SSA must decide if they meet, or medically equal, one of the established Listings. Claimant meets the adult listings for Affective Disorders (Listing 12.04) and Schizophrenic, Paranoid, and Other Psychotic Disorders (Listing 12.03).

#### **Listing 12.04 - Affective Disorders**

Listing 12.04 for Affective Disorders is satisfied when both parts A and B are met, or when part C is met. Claimant meets parts A and B.

#### **Part A, Listing 12.04**

Part A is satisfied when there is medically documented persistence, either continuous or intermittent, of one of subparts 1, 2, or 3. Claimant meets the requirements under subpart 1, which is a depressive syndrome characterized by at least four of the listed symptoms. Claimant

exceeds those requirements by meeting five symptoms.

As is explained above, in March 2012, Dr. Hiscox diagnosed Claimant with a Schizoaffective Disorder, Depressive Type. (Hiscox, p. 7.) When he was a minor, Dr. Power diagnosed him with a Major Depressive Disorder, Severe, with Psychotic Features and an Anxiety Disorder Not Otherwise Specified.

### **1. (a) Anhedonia or pervasive loss of interest in almost all activities**

Claimant has suffered from anhedonia for a long time. In 2007, Dr. Power noted that one of Claimant's primary problems is anhedonia. (Exhibit 10-F, p. 8). At the time, Dr. Power combined that diagnosis with other symptoms, including depressed mood and fatigue. His anhedonia has not dissipated over time. Indeed, Dr. Hiscox described Claimant as "generally feeling unmotivated." Claimant had little motivation to attend high school and now has shown little interest in pursuing his GED. He consistently is absent for his GED classes even though he acknowledges the importance of attending them. Dr. Hiscox noted that his absences can be "attributed to a lack of motivation." (Hiscox, p. 3).

Claimant further has minimal interest in maintaining social relationships. He has no friends and has no interest in interacting with his peers. His social network has been reduced to his family and just a few friends, with whom he only "sometimes socializes." (Hiscox at 3). His sister recollects that he only went out with friends twice in the past year. (RP Declaration). Lastly, Claimant pursues no extracurricular activities. When he actually does attend his GED classes, he promptly returns home to his room to watch TV and/or sleep.

### **2. (c) Sleep disturbance**

Claimant cannot maintain a normal night's sleep because of nightly sleep disturbances. He has consistently experienced hallucinations when trying to fall asleep, a condition noted by Dr. Power as a minor, and more recently by Dr. Hiscox. (UBHC, p. 37, Hiscox, p. 4). As a youth, even a teenager, Claimant could not sleep unless the lights in his room were on. (UBHC, p. 4). At his most recent evaluation, Dr. Hiscox determined that Claimant now has difficulty falling asleep unless the room is in complete darkness. Any source of light causes anxiety because the light casts shadows, which he believes walk around the room, try to touch him, call his name, and tell him to "do it". (Hiscox, p. 6). As a result, as a child, and even now as an adult, Claimant would go to sleep only very late into the night. Many days he does not experience a normal night's sleep, but rather sleeps for spans of one or two hours.

### **3. (e) Decreased energy**

Because of the excessive sleep disturbances, Claimant is perpetually fatigued and cannot function. He cannot wake up, nor get out of bed. He missed school when he was enrolled, misses important family functions, his GED classes, and even caused him to be late for his psychological evaluation with Dr. Hiscox. (Hiscox, p. 3). If he does make it to his GED class, something he is not capable of doing on a daily basis, he returns home immediately when it is

over due to fatigue and a general lack of energy. The presence of fatigue was included in Dr. Power's initial diagnosis and throughout her treatment records. (Exhibit 10F, p. 8).

#### **4. (i) Hallucinations, delusions, or paranoid thinking**

As noted above in section A1j on page 10, Claimant's hallucinations are both visual and auditory in nature. His hallucinations have always been a problem despite treatment through medication and therapy. Indeed, Dr. Power identified his hallucinations as a primary problem as early as June 7, 2007. (Exhibit 10F, p. 37). More recently, Dr. Hiscox found Claimant's hallucinations to still be occurring, with daily frequency, both day and night. In fact, Dr. Hiscox described Claimant's symptoms as "persistent." (Hiscox, p. 6). His most common visual hallucinations are the shadows as described above, which he believes "are a mix of both good and bad spirits," with undistinguishable faces. He also has reported seeing more corporeal hallucinations, such as little girls who run towards and past him. When he sees shadows, he often also has auditory hallucinations where he hears the shadows call his name out, and tell him to "do it." When they happen during the day at home, and he cannot associate them with a shadow, he will often mistake the hallucination for his mother calling out his name. When he goes to his mother to see what she wanted, "she tells him that she did not call for him."

#### **5. (h) Thoughts of suicide**

Also as noted above in section A1i on pages 10, Claimant has not only thought of suicide, but has attempted suicide several times. Claimant's suicidal ideations have been consistent from childhood. Dr. Power and Dr. Iofin documented his past suicidal ideations as a child. (UBHC, p. 8; Iofin Eval.). Dr. Hiscox reports on his current suicide attempts. Last year, Claimant "attempted suicide several times by impulsively cutting his wrist and face." (Hiscox, p. 4). Claimant becomes easily frustrated and despondent when asked about his suicidal ideations. In fact, that is one of the main reasons he became so frustrated with his past therapy. He explained to Dr. Hiscox that he disliked having to constantly answer questions posed by his therapist, and that was the main reason he ceased treatment. (Hiscox, p. 5).

### **Part B, Listing 12.04**

Part B is satisfied when the symptoms of Part A cause at least two of the listed difficulties; Claimant meets the requirements by meeting the following three difficulties.

#### **1. Marked restriction of activities of daily living**

Activities of daily living include adaptive activities such as cleaning, shopping, cooking, taking public transportation, paying bills, maintaining a residence, caring appropriately for [one's] grooming and hygiene, using telephones and directories, and using a post office. In the context of [a claimant's] overall situation, [the SSA will] assess the quality of these activities by their independence, appropriateness, effectiveness, and sustainability. [The SSA] will determine the extent to which [a claimant is] capable of initiating and participating in activities independent of supervision or direction. 20 C.F.R. § 404 app. 1.

Claimant's impairments drastically restrict his ability to properly function during the day, and he requires significant assistance from his mother to complete many of the adaptive activities listed as examples. According to his mother, Claimant sleeps all day and barely contributes to the household chores in terms of cleaning, shopping, or cooking. Claimant's mother perceives Claimant to have no motivation to do anything.

Claimant currently has no need to take public transportation, but in the past he has fallen asleep and missed his intended stop. He also has no source of income, savings, or source of financial sustenance except for the support he receives from his mother. He has no regular bills of his own for which he is responsible. Because he is unable to work and maintain any kind of a residence, if he were separated from his mother, he would be homeless.

While the rest of his family sleeps at normal hours, Claimant cannot sleep due to the visual and auditory hallucinations he hears every night. It will often be 6 AM before Claimant falls asleep. He then cannot wake up in the morning and needs to sleep during the day. This difficulty causes him to consistently either be late for, or completely miss, his GED classes which start at 1PM. As a result, he only attends two out of five classes, on average, per week.

Lastly, Claimant's suicidal ideations have a significant impact on his ability to live. Although "caring for one's health" may not be explicitly listed as an example, it is arguably within the realm of an activity of daily living. Claimant's suicidal ideations are particularly unhealthy because more than just ideations, he has acted on them and has attempted suicide several times. (Hiscox, p. 4).

## **2. Marked difficulties in maintaining social functioning**

Social functioning refers to [one's] capacity to interact independently, appropriately, effectively, and on a sustained basis with other individuals. Social functioning includes the ability to get along with others, such as family members, friends, neighbors, grocery clerks, landlords, or bus drivers. [A claimant] may demonstrate impaired social functioning by, for example, a history of altercations, evictions, firings, fear of strangers, avoidance of interpersonal relationships, or social isolation. . . . 20 C.F.R. § 404 app. 1.

The DSM notes that in patients with Schizoaffective Disorder, "[s]ubstantial occupational and social dysfunction are common," and indeed, Claimant is burdened by both. (DSM 295.70). Claimant demonstrates impaired social functioning by meeting many of the examples provided in Appendix 1 of § 404, most especially altercations, avoidance of interpersonal relationships, and social isolation.

Claimant has a long history of altercations with family members, authority figures, peers, and other people. Perhaps the best examples are the numerous school suspensions that Claimant obtained for repeatedly fighting. (UBHC, p. 1; Supplemental School Records, pp. 26-28). Three of these suspensions, on April 29, May 25, and October 3, 2011, were due to threats and/or physical attacks on authority figures. (Supplemental School Records, pp. 26-28). In fact, Claimant's last suspension in October 2011 was because he assaulted a security guard, which

ultimately led Claimant to drop out of Barringer High School. (Supplemental School Records, p. 26; RP Declaration, p.1). Specifically, after observing an incident between his sister and a female security officer at his school, he lost control, grabbed the security officer by her throat, and began a fight. (RP Declaration, p. 1). This fight caused his sister to have an asthma attack severe enough to warrant hospitalization, and the only reason Claimant stopped the fight with the security officer was to tend to his sister. (RP Declaration, p. 1).

His relationships with family members are no better. He explicitly told his mother that he “can’t stand little kids[, and that he feels] like killing them to see what it is like.” (Exhibit 10F, p. 27). Similar comments were made in March 2012 to Dr. Hiscox. Both Drs. Power and Hiscox have strongly advised that Claimant never be left alone around babies or young children. Even though Claimant’s mother understands he suffers from a serious psychological disorder, she finds it difficult to cope with his behavior, and the two of them constantly argue. The arguments have gotten so bad that she has expressed interest in kicking him out of the house, even though she acknowledges that he needs all the assistance she currently gives him.

His relationship with his sisters is not significantly better. Claimant has problems getting along with his sisters, and punched one of his sisters at least once. (Exhibit 12B, p. 5). He has also gotten into an altercation with his sister’s boyfriend, grabbed two knives, threatened to kill him, and may actually have done so had he not been restrained by the rest of his family. (RP Declaration). His sister noted that Claimant frequently makes “angry faces,” and threatens her with violence. Id. She also noted that Claimant borrows her items often, and becomes very agitated when she asks him to return them. Id.

While Claimant was not fired from his part-time job at McDonald’s (he resigned in frustration), he was threatened with termination several times, and probably would have been terminated, had he not resigned. Claimant had great difficulty communicating and getting along with both his coworkers and customers. He resented directions or criticism from his superiors, and would simply refuse to comply with basic requests. When presented with criticism from a female superior, he began yelling at her, and a verbal fight ensued.

Claimant’s anhedonia and general feelings of worthlessness have caused him to terminate the few friendships he did have. His sister reports that he has no real friends of his own, and that he spends most of his time alone in his room. Constantly fatigued, he does not have the energy to forge new social bonds and prefers to isolate himself.

### **3. Marked difficulties in maintaining concentration, persistence, or pace**

Concentration, persistence or pace refers to the ability to sustain focused attention and concentration sufficiently long to permit the timely and appropriate completion of tasks commonly found in work settings. Limitations in concentration, persistence, or pace are best observed in work settings, but may also be reflected by limitations in other settings. 20 C.F.R. § 404 app. 1.

Claimant has marked difficulties in maintaining concentration, persistence, and pace. Please refer back to Step Three, Domain 2. Attending and Completing Tasks on pages 17-18.

Having met both Parts A and B of Listing 12.04, Claimant meets the requirements for Listing 12.04.

### **Listing 12.03 - Schizophrenic, Paranoid, and Other Psychotic Disorders**

Listing 12.03 is satisfied when both parts A and B are met, or when part C is met. Claimant meets both Parts A and B. Part A is satisfied when there is medically documented persistence, either continuous or intermittent, of at least one of subparts 1, 2, 3, or 4. Claimant exceeds this requirement by meeting both subparts 1 and 4.

#### **1. Delusions or hallucinations**

The medical documentation for Claimant's hallucinations for this part are the same as outlined in subpart (i) of Part A of Listing 12.04 and in subpart (j) of Part A of Listing 112.04.

#### **4. Emotional withdrawal and/or isolation**

As a child, Claimant exhibited complete social withdrawal. (Exhibit 10F, pp. 8-10, 12-17, 19-24, 32-34). He expressed no emotions to anyone, was not involved in any activities, withdrew himself to his room as soon as he returned home from school, and isolated himself from his family. Id.

These symptoms of isolation have not abated as an adult. In his recent psychological evaluation of Claimant, Dr. Hiscox noted that Claimant "only has a few friends," feels anxious in social situations, and experiences depressive withdrawal. (Hiscox, p. 4, 6). He further has no interest in interacting with his peers at his current GED program beyond what is required during classes. He does not linger after his classes end to socialize as the other students do, but rather immediately goes home to withdraw into his room. Essentially, Claimant spends the majority of the day and night alone in his room.

While some of Claimant's withdrawal to his bedroom can be explained by his constant fatigue, there are significant emotional isolation components as well. This is evidenced by the fact that he is not always sleeping when in his room. Often, he watches TV and listens to music in his room alone. While many young adults have some isolationist tendencies, Claimant's isolation is to the extreme. In fact, his sister noted that "he spends most of his days alone in his room, and leaves only to use the bathroom or get something to eat." (RP Declaration). She also further noted that Claimant "does not go out or spend time with friends," and left the house to hang out with his friends just twice in the whole past year. Id.

Part B is satisfied when the symptoms of Part A cause at least two of the listed difficulties. Claimant meets the requirements by meeting the following three difficulties.

#### **1. Marked restriction of activities of daily living**

The difficulties here are the same as those outlined in Part B for Listing 12.04.

## **2. Marked difficulties in maintaining social functioning**

The difficulties here are the same as those outlined in Part B for Listing 12.04.

## **3. Marked difficulties in maintaining concentration, persistence, or pace**

The difficulties here are the same as those outlined in Part B for Listing 12.04.

Because Claimant meets the requirements for Listing 12.04, and, or alternatively, the requirements for Listing 12.03, he should be found disabled, and the process should end here.

### **Step Four - Ability to do Past Work**

Claimant should have been found medically disabled in Step Three. However, if he is not, the process continues to Step Four. The SSA will consider its “assessment of [Claimants’s] residual functional capacity and [his] past relevant work. If [he] can still do [his] past relevant work, [the SSA] will find that [he is] not disabled.” 20 CFR § 416.920(a)(4)(iv). If not, as is the case here, the evaluation continues to Step Five.

“Past relevant work is work that you have done within the past 15 years, that was **substantial gainful activity**, and that lasted long enough for you to learn to do it.” 20 C.F.R. § 416.960(b)(1) (emphasis added). Although Claimant was briefly employed at a McDonalds in Bloomfield, NJ, as is shown in Step One, this job and his income did not constitute substantial gainful activity. Therefore, Claimant has no past relevant work, and the evaluation must continue to Step Five.

### **Step Five - Ability to do Any Other Kind of Work**

Step Five asks whether Claimant is able to adjust to any other work within the national economy. The answer is a resounding no. Because Claimant’s mental impairments are so severe, it is most appropriate to first evaluate Claimant as a person with solely mental impairments and to focus on how these impairments cause him extreme limitations in the workplace. Simply based on these, it is abundantly clear that Claimant cannot work. However, when Claimant’s physical impairments and pain also are considered, the conclusion that Claimant cannot work becomes even more apparent.

When examining a claimant based solely on a nonexertional impairment, and where that nonexertional impairment is a mental impairment, the SSA will apply the framework found in DI 25020.010 to evaluate the claim. POMS DI 22001.030 (F). To be able to work, an individual must be able to meet four basic mental demands, including the abilities to: (1) “understand, carry out, and remember simple instructions”; (2) “make judgments that are commensurate with the functions of unskilled work, i.e., simple work-related decisions”; (3) “respond appropriately to supervision, coworkers and work situations”; and (4) “deal with changes in a routine work setting.” POMS DI 25020.010 (A)(3)(a). A **substantial loss of ability to meet** any of the [four previously listed] **basic mental demands** . . . severely limits the potential occupational base and thus, would justify a finding of inability to perform other work even for persons with favorable

age, education and work experience.” POMS DI 25020.010 (A)(3)(b) (emphasis in original). Claimant cannot meet two of these four basic mental demands. Specifically, he is unable to carry out simple instructions AND is unable to respond appropriately to supervision, coworkers, and work situations.

### **Understanding, carrying out, and remembering simple instructions**

In order to work, a person must “perform activities within a schedule, maintain regular attendance, and be punctual within customary tolerances.” POMS DI 25020.010 (B)(2)(a). Claimant’s depression, severe sleep disturbances, hallucinations, fatigue, and anxiety create a situation where he is physically unable to wake up in the morning at a reasonable time, nor maintain a schedule where he is able to wake up at the same time every day. He already has demonstrated an inability to maintain regular attendance at high school, and now his GED classes, as well as other events, such as his psychological evaluation with Dr. Hiscox.

In order to work, a person also must have the “ability to sustain an ordinary routine without special supervision.” POMS DI 25020.010 (B)(2)(a). Unfortunately, Claimant requires such “special supervision.” Once again, Claimant’s school history is illustrative. Teachers and school evaluators alike were greatly concerned about Claimant’s high level of distractibility, lack of focus, failure to attend, and inability to maintain a pace consistent with his peers. These extreme limitations are described above in the section entitled Attending and Completing Tasks on pages 17-18. However, what was clear was that Claimant was unable to stay focused and on-task without constant redirection. Even then, he was not motivated to learn or complete any schoolwork or homework. As a result, he failed most of his classes in high school.

Moreover, Claimant will testify that when he was working part-time at McDonald’s he required frequent breaks, often much longer than what was permitted, causing a situation where he was frequently reprimanded.

### **Responding appropriately to supervision, coworkers, and usual work situations**

In order to work, a person must possess “[t]he ability to accept instructions and respond appropriately to criticism from supervisors.” POMS DI 25020.010 (B)(2)(c). During Claimant’s brief employment at McDonalds, he demonstrated an inability to accept such instructions and respond appropriately to supervisors. He would often outright ignore directions given to him. He also would respond to innocuous stimuli with unprovoked anger and aggression. He has exhibited an inability to take criticism objectively, and sees even minor suggestions as a personal attack. He has little patience, and a short temper that results in violent outbursts. In fact, during his past employment with McDonalds, he had a violent outburst towards one of his female managers. His inability to correctly accept and process orders and criticisms is made all the more severe because it might trigger a violent or homicidal thought and reaction.

A person also must “get along with coworkers or peers without (unduly) distracting them or exhibiting behavioral extremes.” POMS DI 25020.010 (B)(2)(c). Unfortunately, Claimant falls short here as well in that his inappropriate behavior is not limited to just his superiors. Dr. Hiscox noted Claimant’s predispositions to conflicts with his peers and other people who he



perceives as “often pick[ing] on him.” (Hiscox, p. 4). Indeed, he has acted violently towards his coworkers, and would constantly engage in arguments and fights with them.

Once again, it also is very relevant to look at Claimant’s high school history from 2010 and 2011. As is explained above, Claimant has been suspended from school repeatedly for fighting. (UBHC, p. 1; Supplemental School Records, pp. 26-28). Three of these suspensions, on April 29, May 25, and October 3, 2011, were due to threats and/or physical attacks on authority figures. (Supplemental School Records, pp. 26-28). Additionally, Claimant’s teachers reported “several violent outbursts in school . . . lacks impulse control . . . can be aggressive, defiant, and disruptive in class and argumentative.” (School Social Work Assessment, pp. 2, 6). Mr. Rios, a long time teacher of Claimant rated Claimant in the following manner: Claimant “**almost always** is easily annoyed by others, almost always loses [his] temper easily, almost always sneaks around, almost always gets failing school grades, almost always defies teachers, almost always is easily upset, almost always will argue if denied own way, almost always will say “I want to die” or “I wish I were dead.” *Id.* at 3. Moreover, Mr. Rios also found that Claimant **often** “breaks the rules, has trouble staying seated, seems lonely, deceives others, worries about what other adolescents think, is afraid of getting sick, has poor self control, acts out of control, is pessimistic, seems unaware of others, lies, complains of pain, plays alone, says things that make no sense, says ‘nobody likes me,’ and uses foul language.” *Id.* at 3.

All of these assessments are relevant to how Claimant will get along with authority figures and coworkers. Clearly teachers are analogous to supervisors at the workplace and other students are analogous to coworkers. Thus, it is abundantly clear that Claimant will not be able to control himself at the workplace and thus will not be able to accept instructions from supervisors, nor will he be able to get along with coworkers.

### **Factoring in lack of education and physical limitations**

While it is abundantly clear that Claimant should be found to be completely unable to work based solely on his mental impairments and non-exertional limitations, when his lack of education and physical impairments are factored in, this analysis becomes even more obvious. This is so, because while Claimant is only 19 years old, he must be viewed not only as someone with severe mental impairments, but also as someone who is unskilled, without any past experience, and who is in such pain that he cannot quite do either light or sedentary work.

### **Lack of Education**

As is explained at length above, Claimant did not finish high school, and likely only functions as a 7<sup>th</sup> or 8<sup>th</sup> grade student. While Claimant quit school in the 12<sup>th</sup> grade, a more careful look at his education history reveals that he was not functioning as an 11<sup>th</sup> grader at the time he left school. While the highest formal grade level Claimant fully completed was the 11<sup>th</sup> grade, his grades throughout high school were consistently poor. His GPA was only 0.944 in 9<sup>th</sup> grade, 1.250 in 10<sup>th</sup> grade, and 0.768 in 11<sup>th</sup> grade. (School Records at 43). To achieve such a low GPA, he failed a total of seven of his 25 classes taken in high school, and achieved a grade

no higher than a C in a core curriculum class. Id. Further, in middle school, he was noted to be “functioning approximately 1-2 years below grade level”. (Exhibit 7-E at 1). Moreover, after Claimant dropped out of high school, he enrolled at La Casa de Don Pedro’s Youth-in-Motion Program, which offers G.E.D. preparation assistance. Of the two educational activity categories students are placed in, GED Preparation and Pre-GED/Low-Literacy Education, Claimant qualified only for the latter. (Don Pedro Records, p. 1). Thus, it seems clear that not only did not graduate from high school, but he did not benefit from his time spent in high school in terms of his learning and acquisition of information.

### **No Work Experience**

Moreover, as is also explained above, Claimant has no past work experience. The only work he ever did was part-time work at McDonald’s, which did not yield him SGA and which he was unable to sustain. Nonetheless, Claimant’s part-time work at McDonalds was unskilled labor. His responsibilities at McDonalds included working the cashier, light cleaning, and preparing the fried foods (such as French fries, chicken nuggets, etc.). These responsibilities are best categorized as a “Fast-foods worker” in the Dictionary of Occupational Titles. DOT 311.472-010. The specific vocational preparation (SVP) rating for Fast-foods workers is 2. Id. Jobs with SVP ratings of 1 or 2 are considered unskilled work. POMS DI 25015.015(B)(1)(a). The general education development ratings for a Fast-foods worker are R2, M2, L2. DOT 311.472-010. The strength requirement is “Light”. Id.

### **Physical Limitations**

Finally, Claimant’s physical impairment and most notably his pain, must be considered. As is explained above, Claimant has a history of suffering from rheumatoid arthritis. More recently, Dr. Sushama Mody diagnosed Claimant with hypermobility syndrome, degeneration of lumbar or lumbosacral intervertebral disc, and most severely, unspecified arthropathy involving multiple sites. (Mody at 2). Degeneration is a condition where the intravertebral cushion loses its supportive capacity. <http://emedicine.medscape.com/article/309767-overview#showall>. Arthropathy generally is a disease of a joint, here specifically it is an inflammation of several of Claimant’s joints. <http://www.merriam-webster.com/dictionary/arthropathy>.

Claimant’s rheumatological condition is unique in that it cause him severe pain and renders him unable to stand for extended periods of time AND unable to sit for long periods of time. In either situation, he requires frequent breaks to stand, stretch, and move. While the regulations allow for breaks every two hours, the breaks must be reasonable in length. Claimant will testify that when he was allowed to take a break at McDonalds, he would exceed his allotted 30 minutes, sometimes up to an hour, because it took that long for his pain to subside.

The two possible types of exertional work Claimant might be able to do are “light” work or “sedentary” work. However, as will be explained, he cannot do either. Light work would require Claimant to lift up to 20 pounds and frequently carry up to 10 pounds. It would also require “a good deal of walking or standing”, or significant stretches of sitting “with some pushing and pulling of arm or leg controls”. 20 C.F.R. 404.1567 (b). Because he “must have the ability to do substantially all of these activities,” he cannot be “considered capable of performing a full or wide range of light work”. Id.

Typically, when someone is capable of doing light work, he or she also is able to do sedentary work, “unless there are additional limiting factors such as loss of fine dexterity or inability to sit for long periods of time.” *Id.* Even if Claimant can be considered capable of performing a limited range of light work, the ALJ should not decide that he is capable of performing sedentary work because he is incapable of sitting for long periods of time. The POMS addresses Claimant’s need to alternate periods of sitting and standing:

Where this need cannot be accommodated by scheduled breaks and a lunch period, the occupational base for a full range of unskilled sedentary work will be eroded. The extent of the erosion will depend on the facts in the case record, such as the frequency of the need to alternate sitting and standing and the length of time needed to stand. The RFC assessment **must** be specific as to the frequency of the individual's need to alternate sitting and standing. POMS DI 25015.020 (B)(6) (emphasis in original).

Claimant has had persistent pain in his knees and lumbar spine, as noted when he was 14 years old by Dr. Lathan. (Exhibit 5F, p. 1). Dr. Chalom his treating doctor as a child, also noted that he had “significant sacroiliac tenderness and tenderness over his lomosacral spine.” (Exhibit 9F, p. 4). Lastly and most recently, Dr. Mody noted “degeneration of lumbar or lomosacral intevertebral disc” and “unspecified arthropathy involving multiple sites.” (Mody, p. 2). These diagnoses, when considered along with Claimant’s assessment of the pain he experiences, warrant a finding of inability to perform neither light or sedentary work.

We concede that Claimant’s age alone will “not . . . seriously affect [his] ability to adjust to other work.” 20 C.F.R. § 416.963(c). However, when his lack of education, lack of any past work experience, physical impairments, and most especially his mental impairments are considered, a disability finding is warranted. Claimant should be found disabled based solely on his schizoaffective disorder. However, if not, he should be found disabled based on a combination of his mental and physical impairments because all of the above stated factors combine to create a situation where the pool of available jobs is reduced to zero. Having established an inability to perform any job in the national economy, Claimant should be found disabled.