

Social Security Case Example Two



We have prepared a second practice case study in order to further familiarize you with the process of case evaluation. This is an example of a case without a vocational issue. Cases without vocational considerations are seen primarily in childhood cases.

Prior to the 1990 *Zebley v HHS* case, all childhood cases had to meet or equal a listing in order to acquire disability benefits. Now, a childhood case can be won based on meeting or equaling the listing, or based on the child's inability to perform age appropriate activities.

In childhood claims (claimant under age eighteen), the sequential analysis process stops at step four. Instead of using vocational analysis, Steps five and six, you would identify the claimant's restrictions as usual. You would then determine if those restrictions significantly interfere with the child's ability to perform normal age appropriate activities.

Widow cases used to be evaluated like a child case with no vocational issues. In recent years, this has changed. You would determine the widow's ability to adjust to work just as you would in any other ordinary SSDI case. I mention this here because this fact represents another change in SSA's case processing procedures. This change has opened the door to an enormous number of people who otherwise would have been hopelessly denied disability benefits.

Our case example on Ms. Little is a childhood case without vocational issues. As in our case study one example, you are entering this case on the reconsideration level. Follow the steps in Flow Chart B lesson six for cases without vocational issue

SSA form 4268 PDN

The following is information gleaned from the claimant's PDN denial letter.

Tammy Little is a thirteen year old individual who is being evaluated for disability due to behavioral problems and slow learning. The medical evidence shows a significant impairment that does not meet or equal the listings. The evidence also shows that this child does have some disruptive behaviors, but these behaviors are not in and of themselves disabling.

Her most current WISC-R psychological IQ test showed that the claimant has an IQ of 78

verbal, 74 performance and 74 full scale. These findings indicate that although the claimant does have a significant disorder, it is not severe enough to meet or equal the listing._ Because Tammy's impairments are not severe enough to meet or equal the listings, she has been found not to be under a disability.

Parental Phone Interview

The phone interview with Mrs. Little, Tammy's mother, reveals that Tammy has had behavioral problems for many years._ However, in the last six months, these behaviors have become worse. Mrs. Little states that her daughter has become more combative and disruptive both at school and at home._ She states that Tammy tends to be moody and will not cooperate with others._ There have been at least two incidents where Tammy has physically attacked her parents and siblings without clear provocation.

Tammy does not do chores, prepare simple meals or go outside without supervision. She has difficulty with maintaining personal hygiene without close supervision. She performs poorly in school and has difficulty interacting with others. She is currently in special education classes.

The above information concerning Tammy's daily activities is extremely important to this case._ As a disability consultant you must pursue as much of this personal information as possible in order to be sure that it is considered by SSA in the final decision. Getting ADLs on a child can be tricky. Try to determine in your own mind what a normal thirteen year old child should be capable of doing. To accomplish this, use both your common sense and psychological input from claimant's sources to determine what are normal daily activities for someone of this age._ Then you must ascertain if the child can perform these activities. If she cannot, she may be_ significantly restricted as a result of her impairments.

Medical Records Synopsis

Source: Dr. T.J. Brown, psychologist

A consultative examination on this claimant was ordered by Social Security and performed by Dr. Brown on 1/20/04._ Tammy was given a psychological examination arranged and paid for by Social Security which is common in cases where there is not enough information to make a clear decision._ The mental status portion of the examination revealed a physically normal 13 y/o female who was oriented to person and place, but could not give the correct date or day of the week.

She was dressed appropriately by her mother for this examination._ The examination showed the claimant to have a short attention span, low concentration and borderline intellectual functioning.

The claimant had problems with basic language expression and became agitated by the simple demands of the test._ On the WISC-R IQ test also performed at this visit, claimant showed an IQ of 78 verbal, 74 performance and 74 full scale._ These results place her into the borderline intellectual range._ She was given a diagnosis of borderline mental retardation and a mild personality disorder.

Source: Ohio Public Schools

When Tammy was enrolled in the Ohio Public School system on 1/8/02, she was given psychological testing (WISC-R) for placement into the appropriate level classes. The test results showed a mildly retarded female child with low tolerance and high frustration levels.

These IQ tests also showed borderline intellectual functioning with an average IQ score of 74. She was placed in special education classes where she has performed marginally. School reports indicate that over the last three years there have been a few incidents of inappropriately aggressive behavior from Tammy. There appears to have also been an escalation of antisocial behavior in the last six months.

CASE DISCUSSION

This 13 y/o child has been given a diagnosis of borderline mental retardation and a mild personality disorder. She was denied benefits on initial application because her condition did not meet or equal the listings. We must now argue that she is not capable of normal age related activities as a result of her impairments and that she is in need of special supervision in order to function appropriately.

Note that this case is not only a child case, but also a mental case. We must focus our common sense argument on the mental aspects of this case. Review the DRG, Systems Explorer and the Merck Manual for a discussion of mental impairments.

Since there are no vocational issues involved in this case, we must concentrate our attention on claimant's age related ADLs which are clearly limited. Tammy's mother supplied very useful information concerning Tammy's decreased Activities of Daily Living skills which are supported by the medical evidence.

Here are the most relevant issues in this case:

Claimant has a diagnosis of borderline mental retardation. That diagnosis alone will cause significant restrictions in this claimant's ability to adjust to normal age appropriate activities. Her average IQ is 74. Now we must determine if the child's secondary diagnosis of a personality disorder is significant. If it is, there will be additional limitations caused by this disorder. When the claimant's impairments are combined, they arguably prevent the claimant from performing age related activities which would lead to an allowance of the case. We are now ready to summarize this case in a reconsideration rebuttal letter or formal argument.

Formal Argument

The claimant Tammy Little is a 13 y/o individual who is being evaluated for disability due to behavioral problems and slow learning skills. On the claimant's initial and reconsideration applications, it was determined by Social Security that her impairments were not of the severity required to be considered totally disabling under the disabled child benefits

program. Prior determinations of this case indicate that Social Security felt that claimant was not disabled based solely on the contention that she did not meet or equal the medical listings. It is my contention that although claimant does not meet the listings, she does exhibit medically determinable characteristics that would severely interfere with her ability to perform normal age related activities.

On the claimant's behalf, we are now requesting an Administrative Law Judge review of the facts involved in this case. The following is a list of medical evidence in support of claimant's severe impairment:

Parental activity report: _ This is an (ADL) report from parents describing a child's limitations.

Dr. T.J. Brown's report dated 1/20/98.

Ohio Public School report and psychological testing dated 1/8/96.

The medical evidence indicates that this child suffers from a documented case of borderline mental retardation and a behavioral disorder (diagnosis) that significantly interferes with her ability to perform normal age related activities. Mrs. Little, claimant's mother, states that Tammy has had behavioral problems for many years. The mother believes that Tammy's behaviors have recently worsened. Mrs. Little states that the child has become less cooperative and more combative in the last six months". This observation is supported by the OPS (Ohio Pubic School) report in file.

Review of the OPS report shows that Tammy suffers from mild mental retardation with IQ scores averaging around 74. Claimant was apparently placed in special education classes where she performed marginally. This same report refers to multiple incidents of inappropriately aggressive behavior by claimant and supports ADL information supplied by the claimant's parents.

The most current psychological testing was ordered by SSA and performed by a Dr. T.J. Brown. This psychological examination showed that claimant does suffer from mental retardation and what is described as being a mild personality disorder. The report further shows that claimant was not oriented to place or time which gives a clue to the severe psychological limitations suffered by this claimant.

It is also important to note that the claimant had to be dressed by parents for the above examination, indicating an age inappropriate dependence on others for personal needs. The examination also revealed that claimant has a short attention span, low concentration skills and questionable age appropriate judgment. Tammy showed problems with basic language expression and become agitated by the simple demands of this psychological test. The lowest IQ result was 74 in the performance area, indicating that claimant's ability to function is well below that of the _national average for those children of the same age category.

Summation

The medical evidence on file indicates that claimant Tammy Little is suffering from a severe mental impairment that prevents this child from performing normal age related activities. The

Social Security Administration has determined that this claimant's impairments are not of the severity required to meet or equal the medical listings. I agree with SSA on this point.

However, it is my contention that this claimant suffers from a severe impairment that manifests itself in the form of a significantly reduced IQ, and a significant additional psychological impairment (personality disorder) that further reduces the claimant's functional abilities._ It is further felt that although this claimant does not meet or equal a listing by SSA standards, this claimant would surely meet or equal the intent of the listings.

Listing 12.05A is met when mental incapacity is manifested by dependence on others for personal needs such as toileting, eating, dressing or bathing. This thirty-year old child, although able to marginally perform the above personal activities, is not capable of performing them to completion without direct parental supervision.

Listing 12.05C states that a claimant must have an IQ of 70 or less and an additional significant impairment. This claimant has a performance IQ of just 74 and a verbal IQ of 79 with an additional diagnosis of a personality disorder. In view of the evidence in this case, it is felt that this claimant meets the intent of the listings and should on that basis be awarded disability benefits.

In view of the medical findings in this case, it is reasonable to conclude that this claimant meets the definition and spirit of disability as described by law, and therefore a finding of disability is warranted.

Sincerely Yours,

Authorized Representative