APPEALS COUNCIL

SOCIAL SECURITY ADMINISTRATION

----------x

In the Matter of	Case #:
[redacted]	21FN965F25440

----------x

MEMORANDUM

REQUEST FOR REVIEW OF THE ALJ DECISION AND ORDER DENYING, EITHER IN WHOLE OR IN PART, SOCIAL SECURITY DISABILITY BENEFITS.

TABLE OF CONTENTS

A. Summary of Issues presented:
Provides a summary of the issues, with a brief answer. 2

B. Detailed Analysis:
Provides a detailed analysis of the issues raised.....2

C. Broad Request For Review:
Requests AC to identify issues that are not raised in this brief 5

D. Conclusion......5

A.
SUMMARY OF ISSUES PRESENTED:

1. Whether the ALJ erred by failing to incorporate into the residual functional capacity, or explain the omission of, manipulative and reaching limitations, despite the ALJ's own documented findings of bilateral grip weakness, MCP swelling, and shoulder synovitis.

Brief Answer: Yes. SSR 96-8p required the ALJ to either incorporate a manipulative or reaching restriction grounded in the ALJ's own clinical findings or explain its omission, and the decision does neither, leaving all three Step 5 occupations untested against that limitation.

2. Whether the ALJ erred by denying medical necessity for the claimant's cane under an improper prescription-based standard and by cherry-picking the record, contrary to SSR 96-9p.

Brief Answer: Yes. SSR 96-9p does not require a prescription, and the ALJ's own decision documents an antalgic gait with cane that the ALJ never reconciles with the denial, a defect that is not harmless given the light-work jobs cited at Step 5.

3. Whether the ALJ erred at Step 5 by accepting the vocational expert's mixed-taxonomy job-number testimony without requiring the crosswalk explanation SSR 24-3p requires.

Brief Answer: Yes. The vocational expert never identified the SOC group, competing DOT codes, or derivation methodology underlying her job estimates, and SSR 24-3p required the ALJ to develop the record once that explanation proved inadequate.

B.
DETAILED ANALYSIS:

The claimant states that the ALJ erred in evaluating the facts and evidence, and erred in the application of legal principles, including the applicable Rules and Regulations. As such, the claimant appeals the ALJ's decision denying benefits for the following specific reasons addressed below.

1. THE ALJ ERRED BY FAILING TO INCORPORATE OR EXPLAIN THE OMISSION OF MANIPULATIVE AND REACHING LIMITATIONS FROM THE RFC DESPITE THE ALJ'S OWN DOCUMENTED FINDINGS OF BILATERAL GRIP WEAKNESS, MCP SWELLING, AND SHOULDER SYNOVITIS.

The claimant asserts that the ALJ erred by finding fibromyalgia and rheumatoid arthritis severe at Step 2 and documenting, in the clinical-findings recitation supporting the RFC, "decreased grip strength bilaterally," "swelling and tenderness of the bilateral MCPs, shoulders, neck, hips, knee and ankles," and "synovitis of the bilateral shoulders and Achilles's tendon" (Page 9 of the ALJ Decision), yet incorporating no manipulative or reaching limitation into the residual functional capacity ("RFC"), which limits the claimant to less than the full range of light work with postural and exertional restrictions but no accommodation for hand or shoulder function (Page 7 of the ALJ Decision).

SSR 96-8p provides that the RFC assessment "considers only functional limitations and restrictions that result from an individual's medically determinable impairment or combination of impairments, including the impact of any related symptoms," and requires the adjudicator to "explain how any material inconsistencies or ambiguities in the evidence in the case record were considered and resolved." The ALJ documented bilateral grip weakness and MCP and shoulder pathology as established clinical fact, then constructed an RFC treating manipulation and reaching as entirely unrestricted, without a single sentence reconciling that inconsistency. The only medical opinion addressing manipulation, that of Dr. Kneifati, found the claimant could only "frequently reach, handle, finger, feel, and push/pull with the upper extremities" (Page 11 of the ALJ Decision) — itself a restriction, not an unlimited-manipulation finding. The ALJ found that opinion unpersuasive, but never separately addressed whether the documented grip weakness and MCP/shoulder findings, independent of Dr. Kneifati's opinion, required some manipulative accommodation.

This omission is not harmless. All three Step 5 occupations the vocational expert identified — Cashier II, electrical accessories assembler, and small products assembler — are the type of jobs that typically require sustained, often constant, bilateral handling and fine fingering. Even a "frequent," rather than constant, manipulative restriction of the kind Dr. Kneifati assessed would likely be inconsistent with sustained performance of the two assembly positions, and any reaching restriction tied to bilateral shoulder synovitis would bear on all three jobs' handling and stocking demands. Because the vocational expert was never asked whether the cited occupations, or their attributed job numbers, remain available to a claimant with a manipulative or reaching restriction grounded in the ALJ's own documented findings, and because SSR 96-8p required either incorporation of that restriction or an explanation for its omission, remand is required for proper application of SSR 96-8p.

2. THE ALJ ERRED BY DENYING CANE MEDICAL NECESSITY UNDER AN IMPROPER PRESCRIPTION-BASED STANDARD AND BY CHERRY-PICKING THE RECORD, CONTRARY TO SSR 96-9P.

The claimant asserts that the ALJ erred by denying medical necessity for her cane on two independently defective grounds. First, the ALJ's opening and primary stated reason for denial was that "the claimant's medical records do not indicate the claimant was prescribed a cane or any other assistive ambulatory device" (Pages 10-11 of the ALJ Decision). SSR 96-9p does not condition medical necessity on a formal prescription; it requires only that "there must be medical documentation establishing the need for a hand-held assistive device to aid in walking or standing, and describing the circumstances for which it is needed." That documentation exists in this record independent of any prescription: examining physician Dr. Kneifati found the claimant "was not able to walk without a cane due to pain in her back and legs and poor balance" and that she "can only ambulate three steps without a cane" (Page 11 of the ALJ Decision).

Second, and independently, the ALJ's fallback rationale — that clinical findings are "not consistent with the claimant's alleged need to use a cane" (Page 11 of the ALJ Decision) — rests on selective citation of only favorable evidence. The ALJ cites normal findings on isolated dates (Pages 10-11 of the ALJ Decision) while omitting, from that same analysis, the abnormal gait findings the decision documents just two pages earlier: "a stiff gait," "a waddling short-step gait," and "an antalgic gait (with cane)" (Page 9 of the ALJ Decision). The last phrase is direct medical

documentation that a treating source observed the claimant using a cane while compensating for pain, and the ALJ never acknowledges or reconciles it anywhere in the medical-necessity analysis.

This error is not harmless. SSR 96-9p provides that use of a medically necessary hand-held device can reduce the occupational base because, where the device occupies one hand, the claimant may be limited to work not requiring bilateral manual tasks while standing or walking. Two of the three Step 5 occupations — Cashier II and electrical accessories assembler — are light-work jobs that plausibly require bilateral hand use while standing at a register or workstation. If the cane is found medically necessary on a corrected record, those two jobs may be eliminated, leaving only the sedentary small products assembler position. Because the ALJ applied a standard SSR 96-9p does not impose, and disregarded the decision's own contrary gait findings without explanation, remand is required for proper application of SSR 96-9p.

3. THE ALJ ERRED AT STEP 5 BY ACCEPTING VOCATIONAL EXPERT TESTIMONY DERIVED FROM A MIXED-TAXONOMY DATA SOURCE WITHOUT REQUIRING THE CROSSWALK EXPLANATION SSR 24-3P REQUIRES.

The claimant asserts that the ALJ erred at Step 5 by accepting vocational expert Sheryl Bustin's job-number testimony without requiring the explanation SSR 24-3p demands where mixed-taxonomy data sources are used. SSR 24-3p provides that the Administration expects vocational experts to "identify the sources of the data they use and, where applicable, to explain their general approach to estimating job numbers." Because the DOT and SOC/OEWS systems use different classification taxonomies, VEs must "explain the general approach of how they compared the DOT data to the data about estimates of job numbers in OEWS," including "the SOC group for the corresponding DOT code" and how the estimates "are derived from the overall numbers for the SOC group." A footnote confirms the crosswalk requirement applies whenever job numbers come from a non-DOT source, since the DOT itself "does not provide information about job numbers."

VE Bustin testified that she relied on "the Dictionary of Occupational Titles (DOT), Department of Labor, Bureau of Labor Statistics, and SkillTran Job Browser Pro" and used SkillTran "to obtain the job numbers for the DOT level for full-time work only" (Page 14 of the ALJ Decision). SkillTran derives its published job-incidence estimates from Bureau of Labor Statistics OEWS data, a SOC-based source. The decision recites only a generalized assurance that the VE "did not cite different classifications and sources of occupational data that do not precisely correspond to each other" (Page 14 of the ALJ Decision); it never identifies the SOC group mapped to any of the three cited DOT codes, competing DOT codes within those groups, SOC-group OEWS totals, or the derivation methodology by which SkillTran isolated the specific job figures for each occupation. SSR 24-3p anticipates this scenario: "A detailed inquiry is not required, but if a VE does not provide any explanation about the general approach, our adjudicators should ask them to provide one." Nothing in the decision indicates that inquiry occurred, and the ruling places the resulting burden on the adjudicator: "the adjudicator will usually need to develop the record with sufficient evidence to make a supported finding" at Step 5.

This error is not harmless. SOC groups frequently aggregate numerous DOT occupations under a single code, and without the required crosswalk there is no way to confirm that the job figures reflect the specific occupations cited rather than an unallocated share of a broader SOC-

group total. Because the entire Step 5 "not disabled" finding depends on the reliability of those job figures, remand is required for further vocational development consistent with SSR 24-3p.

C.
BROAD REQUEST FOR REVIEW:

The Appeals Council has an affirmative duty to review the entire record, including "new and material evidence" before rendering its decision to grant or deny review. *See Williams v. Halter,* 135 F.Supp.2d 1225, 1231 (M.D.Fla.2001); 20 C.F.R. § 404.970(b).

Although an ALJ's findings of fact may be taken as conclusive, the Appeals Council may review all the evidence of record to decide whether the ALJ's findings are supported by substantial evidence. In *Powell v. Heckler,* 789 F.2d 176 (3d Cir.1986), the court held that the Appeals Council need not limit its review to the issue appealed, but may review a claimant's entire case. Id. at 179; see also *Hale v. Sullivan*, 934 F.2d 895, 898 (7th Cir.1991) (once the Appeals Council receives a timely request for review, it is entitled to review the entirety of the case); *Gronda v. Secretary of Health & Human Serv.,* 856 F.2d 36, 38–39 (6th Cir.1988) (Appeals Council had authority to review entire case within 60 days of ALJ's decision even though claimant only requested review of narrow aspect of case), cert. denied, 489 U.S. 1052, 109 S.Ct. 1312, 103 L.Ed.2d 581 (1989).

In this case, the claimant is asking the Appeals Council to review specific and narrow issues, which are identified in Section B, above. However, in addition to the specific issues identified above, the claimant is also asking the Appeals Council to review all the evidence of record to determine if the ALJ committed any other errors, beyond those errors that have been specifically identified above.

In this case, the claimant asserts that the ALJ erred in evaluating the facts, evidence, and erred in the application of legal principles, including the applicable Rules and Regulations. As such, it is requested that the Appeals Council vacate the decision denying benefits and remand the case for further consideration.

D.
CONCLUSION:

The claimant asserts that the ALJ erred in evaluating the facts, evidence, and erred in the application of legal principles, including the applicable Rules and Regulations. Consequently, the claimant asserts that the decision denying benefits is not based upon substantial evidence. The claimant requests that the Appeals Council vacate the decision denying benefits and remand the case for further consideration.

Dated: September 20, 2026

Respectfully submitted:

/s/ Bryan Konoski

BRYAN KONOSKI, ESQ.