APPEALS COUNCIL
SOCIAL SECURITY ADMINISTRATION

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In the Matter of

[redacted]

Case #:

26WJ154K17196

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MEMORANDUM

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

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A.
SUMMARY OF ISSUES PRESENTED:

1. Whether the ALJ erred by omitting the persuasive state agency psychological consultants' limitation to "one- and two-step tasks" from the residual functional capacity, based on the ALJ's own unsupported determination that the limitation was "not vocationally defined," without eliciting vocational expert testimony on the substitution.

Brief Answer: Yes. SSR 24-3p reserves that vocational determination to the vocational expert, and SSR 96-8p required the ALJ to explain why the persuasive opinion's own limitation was not adopted; no vocational expert testimony addresses whether the cited jobs remain available under the more restrictive limitation, so the error is not harmless.

2. Whether the ALJ erred by accepting the vocational expert's job-number testimony at Step 5 without developing the record on the data source(s) and crosswalk methodology SSR 24-3p requires before such testimony may be relied upon.

Brief Answer: Yes. SSR 24-3p required either the vocational expert or the ALJ to explain how the cited job figures were derived from a Standard Occupational Classification-based source, and the decision does neither, leaving the entire Step 5 occupational-base finding unreviewable for substantial-evidence support.

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 OMITTING THE PERSUASIVE STATE AGENCY LIMITATION TO "ONE- AND TWO-STEP TASKS" FROM THE RESIDUAL FUNCTIONAL CAPACITY WITHOUT VOCATIONAL EXPERT TESTIMONY ESTABLISHING EQUIVALENCE.

The claimant asserts that the ALJ erred by omitting from the residual functional capacity a specific, numerically bounded limitation contained within a medical opinion the ALJ found persuasive, based on an unsupported vocational determination the ALJ was not authorized to make. At Page 8 of 10, the ALJ found the State agency psychological consultants' findings persuasive, quoting their determination that the claimant "can understand, retain, and follow simple instructions (i.e., perform one- and two-step tasks)." The mental residual functional capacity adopted at Page 6 of 10, however, limits the claimant only to "simple instructions," omitting the parenthetical "one- and two-step tasks" specification entirely. The ALJ explained this omission at Page 8 of 10 by finding that the consultants' language "is not vocationally defined, and thus, does not adequately articulate the limitation for use in a residual functional capacity assessment."

That explanation is itself the error. SSR 24-3p assigns the task of translating functional findings into occupational terms to vocational specialists and experts, who are consulted "based

on their professional knowledge, training, and experience and the vocational data available to them." By unilaterally characterizing the consultants' own numerically specific limitation as vocationally indeterminate, and substituting different language of the ALJ's own choosing, the ALJ performed the function SSR 24-3p reserves to the vocational expert, without ever posing a hypothetical question incorporating "one- and two-step tasks" to the vocational expert at Page 9 of 10. Where the residual functional capacity assessment conflicts with an opinion from a medical source, "the adjudicator must explain why the opinion was not adopted." SSR 96-8p. The ALJ's stated rationale does not satisfy that obligation; it substitutes the ALJ's own lay vocational judgment for the persuasive opinion's own terms.

The error is not harmless. The vocational expert identified vehicle cleaner, garment folder, and price marker in response to a hypothetical limited to "simple instructions" (Page 9 of 10); no testimony addresses whether any of the three jobs remain available to an individual restricted to one- and two-step tasks specifically, a materially narrower restriction. Because the claimant was found not disabled at Step 5 based on vocational testimony responsive only to the ALJ's own substituted language rather than the persuasive opinion the ALJ purported to adopt, the residual functional capacity assessment is not supported by substantial evidence. Remand is required so that a proper hypothetical, incorporating the persuasive opinion's own "one- and two-step tasks" limitation, can be posed to a vocational expert.

2. THE ALJ ERRED AT STEP 5 BY ACCEPTING VOCATIONAL EXPERT JOB-NUMBER TESTIMONY WITHOUT DEVELOPING THE RECORD ON THE REQUIRED SSR 24-3P CROSSWALK METHODOLOGY.

The claimant asserts that the ALJ erred at Step 5 by accepting the vocational expert's job-number testimony without satisfying the adjudicator's affirmative record-development duty under SSR 24-3p. At Page 9 of 10, the vocational expert testified that the claimant could perform vehicle cleaner, garment folder, and price marker, with corresponding national job figures totaling 162,000 jobs. At Page 10 of 10, the decision states in full that "the vocational expert has identified the data source(s) they relied on and provided their general approach to estimating job numbers (Hearing Testimony)," and concludes that "the vocational expert's testimony is accepted in accordance with SSR 24-3p." The decision never identifies what those data sources were and never describes the vocational expert's general approach anywhere in its text.

This recitation does not satisfy SSR 24-3p. The Dictionary of Occupational Titles "does not provide information about job numbers," so any job-incidence testimony necessarily derives from a Standard Occupational Classification-based source. As SSR 24-3p explains: "Because the DOT uses a different classification taxonomy from the SOC system, VEs would need to explain the general approach of how they compared the DOT data to the data about estimates of job numbers in OEWS, a SOC-based classification system." Nothing resembling that explanation, including the corresponding SOC group, competing DOT codes, or the crosswalk methodology, appears anywhere in the decision. SSR 24-3p places the resulting burden on the adjudicator, not only the vocational expert: "if a VE does not provide any explanation about the general approach, our adjudicators should ask them to provide one," and where that explanation remains missing, "the adjudicator will usually need to develop the record with sufficient evidence to make a supported finding at step four or step five." Neither occurred here; the decision neither elicited the missing methodology at hearing nor developed the record through any other means.

The error is not harmless. The entire Step 5 finding depends on the reliability of job figures drawn from a data source the decision never identifies and a methodology the decision never describes, leaving the occupational-base determination unreviewable on this record. Because the numerical foundation for the not-disabled finding cannot be assessed for substantial-evidence support, remand is required for record 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

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