

## Max Rae

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March 9, 2012

Patrick P. O'Carroll Jr.  
Inspector General  
Social Security Administration  
P.O. Box 17785  
Baltimore, Maryland 21235

Fax: 410-597-0118

RE: Request for Investigation

Dear Mr. O'Carroll:

I am enclosing a partial transcript from a Social Security hearing held 11:00 AM, February 28, 2012, in Salem, Oregon. At that hearing, the vocational expert testified that she had been instructed by specific ALJs to provide false job numbers testimony, exaggerating the numbers of jobs existing within specific occupations. She further testified that she had consulted with other vocational experts and confirmed the practice. Tr. 5. I report this to you so that you can take immediate protective action to safeguard the integrity of the disability adjudication process from what appears to be an ongoing and deeply ingrained local practice of fraud and perjury.

As you probably know, at the end of most Social Security hearings, the ALJ calls a vocational expert to describe the claimant's past work and to identify occupations that could be performed under various hypothetical sets of limitations. The vocational expert is then asked the numbers of jobs in each identified occupation, because to deny the claim based on the existence of other jobs, those jobs must exist in "significant" numbers. Hence, the job numbers testimony is often outcome determinative of the claim. To deny at Step 5, the ALJ usually has to have testimony identifying a significant number of jobs.

This vocational expert first gave job numbers testimony that seemed grossly exaggerated. When challenged, she readily admitted that she had provided the numbers of jobs for a group of occupations and not the individual occupation, and further testified under oath:

"When I spoke with judges, the specific judges told me, 'Ms. [redacted] all of the other VE's give the numbers for the OES grouping. If you don't give those numbers, you're stepping out of bounds, or not complying with other vocational experts', and so in order to be in compliance with what the judges have requested, I have stuck with the initial numbers for the OES grouping, but when questioned further I've given the reduced number, which is the number for the specific DOT code." Tr. 5

"When I became a vocational expert, I consulted with other vocational experts as to how they convey the employment numbers, and most of my colleagues do use Job Browser Pro and they do give the employment numbers in the way that I just gave them." Tr. 5.

This vocational expert was very innocent and open about all of this. I think that she was just doing what she had been told to do and did not realize how wrongly she was being coached. She deserves your protection, lest she suffer retaliation for her courage in exposing this misconduct.

If this vocational expert's testimony is correct, and I strongly suspect that it is, countless claimants may have been cheated out of their claims as a result of exaggerated job numbers testimony.

I ask that you take the following actions:

1. Immediately contact this vocational expert for specific information. She testified that specific judges had told her to provide false numbers. Those judges need to be identified and immediately suspended from conducting further adjudications until a full investigation can be completed. Please call her at
2. Immediately contact all vocational experts serving the Oregon ODAR offices and advise them that the practice of providing job numbers for a group of occupations when asked for the numbers for an individual occupation is perjury, not accepted agency practice.
3. Investigate and identify those with responsibility for this fraud, and impose appropriate sanctions.
4. Identify all claims where false job numbers testimony may have formed part of the basis for denial, and grant those claimants the opportunity for a new hearing before an ALJ not affected by this pattern of misconduct, and with a new vocational expert. This screening process will not be difficult. This vocational expert demonstrated software at the hearing which produces job numbers for individual occupations almost instantly upon typing in the DOT code. Since ALJs typically include in their decisions both the DOT codes and the job numbers upon which they have relied, any clerk with this software can make the necessary comparison very easily.

Thank you.

Very truly yours,



Max Rae  
Attorney

MR:mar

cc: Debra Bice  
Chief Administrative Law Judge  
Office of Disability Adjudication and Review  
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Falls Church, VA 22041-3255

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