

If the SSA representative does not participate, the ALJ will proceed with the action on remand as in any other case not involving SSA representative.

Where the AC directs the ALJ to obtain a consultative examination or other additional evidence, the ALJ should make the arrangements to obtain the evidence even if an SSA representative will participate in the case.

If an ALJ obtains a consultative examination or other evidence and a supplemental hearing is not being held, the additional material should be proffered to both the claimant and to the SSA representative if the SSA representative is participating in the case.

## XX. COURT REMANDS

Where there is a court remand case in which an SSA representative had participated in the prior proceedings, and the AC remands the case to an ALJ; the SSA representative, as in regular AC remands, will ordinarily participate in the further proceedings before the ALJ. If an SSA representative had not participated in the prior proceedings, the ALJ should handle the remand in the normal manner with no involvement of an SSA representative.

# THE ROLE OF CLINICAL NEUROPSYCHOLOGY IN DISABILITY DETERMINATIONS

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This article is meant to provide a brief introduction to the role of a neuropsychologist (trained in the measurement and rehabilitation of nervous system functioning) in disability determination, in general, and Social Security disability, in particular.

## Brain Damage as Disability

Although society tends to associate mental disability with functional disorders (i.e., not having an organic basis), there is increasing evidence that many (if not most) mental disabilities have an organic basis.

An excellent example is the chronic brain syndromes. These syndromes, which are usually ill-defined, may be a result of various situations including atrophy of the brain (such as senile individuals), edema (increased pressure due to trauma), vascular problems (as in hemorrhages of blood vessels), tumors, or simple trauma (often associated with automobile accidents).

Results of brain damage can be as varied as the types of damage. Nevertheless, there are specific areas in which one might examine for clues. These include: grooming, hygiene, dress, eye contact, motor movement, cooperativeness, and general conversation style and content. Common signs of brain damage include: concrete (shallow) thinking, distortion of time, lack of motivation, perseveration of behaviors, and poor attention span. One might also be

prone to: decreased awareness of self and others, poor long and short term memory, aphasia (loss of ability to use language), and changes in motor and perceptual processes.

## What is the Difference Between a Neurologist and a Neuropsychologist?

In reading the preceding, one might pose the question as to why not consult a neurologist for these kinds of problems, especially since neurologists have studied nervous system activity.

Generally speaking, the answer lies in comparing training of these two professions. The neurologist completes residency training after receiving a medical degree. The four years of medicine prior to residency revolve around anatomy and physiology. In sharp contrast, the neuropsychologist concentrates on behavior not only at the graduate level, but at the undergraduate level as well. In most states, one to two years of post-Ph.D. supervision is required before becoming eligible to take the psychology licensing examination.

In summary, the differences are not so much in the amount of education but in their orientation. The neurologist is more physiologically oriented while the neuropsychologist is typically interested in the end product of nervous system activity, behavior.

## Training and Credentialing in Clinical Neuropsychology

Until recently, this question had not been answered. Thus, one might find psychologists with a Ph.D. dating into the 1960's, for example, with essentially no training in this area (simply because it did not exist then). Manfred Meier (in Filskov & Boll, 1981) recently proposed that an individual should be trained in both clinical psychology as well as neuroscience. One should expect, therefore, for clinical neuropsychologist to have training both in clinical psychology as well as the more biologically oriented subspecialty such as physiological psychology. Variations of this recommendation are found in Golden and Kuperman's article (1980).

Additionally, and again depending on the state, this individual should have a minimum of one year supervised experience in this area (preferably in an organized health service setting, e.g., hospital). Several neuropsychology training programs are found in an article by Sheer and Lubin (1980).

Next, these individuals should be licensed as practicing/applied/clinical psychologists in their state. This requires screening of training and clinical experience as well as passing a written and/or oral examination.

Finally, recent addition to this process of credentialing has been that of certifying of individuals by independent bodies. These include the American Board of Professional Neuropsychology and the American Board of Clinical Neuropsychology. In both cases, a board of recognized neuropsychologists will review applications for clinical and diplomate status. However, a compiled list of "Board-Certified" neuropsychologists will not be available probably until 1984. In the meantime, one might want to consider contacting either your local psychological association or division 40 (Clinical Neuropsychology) of the American Psychological Association for the address of the nearest neuropsychologist.

### What Can Neuropsychology Do To Determine Disability?

Assuming that the interest of the representing party is to determine disability due to behavioral deficiencies, inappropriateness and excessiveness, than the neuropsychologist would be of assistance. It is important to note that while the neuropsychologist is interested in the neural concomitants and substrates of behavior, in the final analyses s/he will provide conclusions and recommendations based on behavioral sequelae of neural impairment not on neural impairment alone.

Another issue is, what type of client may best be served by the neuropsychologist. It does not take a trained individual to note the deficiencies of an individual with extensive motor or sensory loss. In contrast, a neuropsychologist can best serve difficult cases, including chronic schizophrenia (is it brain damage?) or sift signs (is it normal aging or mini-strokes?). Both neurological and psychiatric problems would be appropriate clients.

What kinds of instruments might these individuals use in determining disability? Individual tests would include the Weschler Adult Intelligence Scale (Revised), the Army Alpha and Beta, Bender Gestalt, Facial Recognition, Hooper Visual Organization, Revised Minnesota Paper Form Board Test, Visual Retention Test, Memory for Designs, Proverbs Test, Whitaker Index of Schizophrenic Thinking, Token Test, and Projectives (such as Human Drawing). Currently, the two most commonly used composite batteries in clinical neuropsychology are the Halstead-Reitan and the Luria-Nebraska Neuropsychology Batteries.

It would not be unreasonable to request specific tests from the neuropsychologists although most psychologists have their own preferences. It may be wise, however, to request that specific behaviors be examined more closely since a case may hinge on one particular anomaly. In either situation, a two-three page single spaced report should be in your hands one to two weeks after the consultation. Finally, many psychologists are not only trained but willing to serve as expert witnesses.

It would not be unreasonable to request that the consulting psychologist shape the consultation to meet the Social Security requirements. However, one should note that the standards suggested by the Social Security administration for Chronic Brain Syndrome are woefully inadequate. That is brain damage (chronic or otherwise) may manifest itself in more ways than outlined on page 55 of their manual **Disability Evaluation Under Social Security**. Furthermore, one should not be complacent with the continued misuse of the Weschler Adult Intelligence Scale and the Bender Gestalt as the sole instruments used to determine behavioral anomalies.

Depending on the number of hours of client contact as well as the area of the country, one might expect a neuropsychological evaluation to cost from \$250 to \$1,000. These fees not only vary but may be negotiable. In either case, it would be worthwhile to determine services and fees prior to the consultation.

### Conclusion.

With the increasing evidence on the effects of brain damage on behavior, the field of clinical neuropsychology will be able to provide services in an area heretofore largely ignored. It is important to note that since neuropsychology is a relatively new and expanding field it can be molded according to the needs requested by other professionals.

Additionally, both training and clinical experience suggest that these professionals can only be of service to the legal profession when the issue in question revolves around the behavioral consequences of brain damage.

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- American Board of Professional Neuropsychology:  
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## SUPREME COURT TO REVIEW GRID REGULATIONS: CAMPBELL V. SCHWEIKER

*EDITOR'S NOTE: The U.S. Supreme Court has granted certiorari in the 2nd Circuit case, Campbell v. Schweiker. The Respondent's Brief includes a Summary of Argument.*

### SUMMARY OF ARGUMENT

1. Claimants have the burden of proving that they are eligible for disability benefits, but once they prove they are unable to perform their past jobs, the burden of going forward shifts. The Secretary must then prove that there are other jobs that the claimants can perform. The Secretary may take administrative notice, throughout the "grid", of the existence of jobs for people with certain capacities, but he must make individualized findings of fact concerning the actual capacities of the particular claimant.
2. In order to obtain the evidence necessary to make these findings of fact, the Secretary must meaningfully inform the claimant of the issues to be addressed at the hearing. The duty to inform the claimant of the issues arises from the Social Security Act and regulations. The Secretary has an obligation, based on the regulations and on virtually unanimous case law to aid the claimant in presenting all the relevant evidence. The need for meaningful notice arises also from the constitutional guarantee of due process of law. The notice must be reasonably calculated to enable claimants to understand the issues.