

Testimony to The Committee on Homeland Security and Governmental Affairs

of

Alfred Bradley Adkins, Ph.D.

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Introduction:

Greetings to all those present. My name is Alfred Bradley Adkins. I am from the far eastern end of the state of Kentucky, close to a small town named Pikeville. I am the father of a twenty-year-old daughter. I am the son of Alfred Adkins, Jr. and Lois Evelyn Thacker-Adkins. My family hails from the hills of eastern Kentucky for several generations.

I would like to begin by thanking the U.S. Senate Committee on Homeland Security and Government Affairs for asking me to testify here today in the Dirksen Senate Office Building. I hope my testimony will be useful for your purposes.

I am a licensed clinical psychologist in the state of Kentucky. I have obtained, through much hard work, a doctoral degree in clinical psychology from The Union Institute and University of Cincinnati, Ohio. Prior to that, I received a Bachelor of Science degree from Pikeville College. I then obtained a Master's degree in psychology from Morehead State University in Morehead, Kentucky.

I performed my pre-doctoral and post-doctoral internships at The Carl D. Perkins Vocational Rehabilitation Center in Thelma, Kentucky. This included performing psychological evaluations of individuals with disabilities. These evaluations were made into reports that were used by field counselors to determine eligibility of patients for vocational rehabilitation benefits and for determining proper vocational rehabilitation goals for these patients.

I believe that God has blessed me to be of assistance to many people who suffer from mental health disorders and life problems and issues. My goal is to continue this, with God's help, throughout the remainder of my life.

History of involvement with disability determinations:

I began performing consultative examinations regarding disability determinations around the year 2003. At that time, I had not yet obtained autonomous licensure in Kentucky, so I performed them under the supervision of an autonomous psychologist. I began performing these examinations for private attorneys as well as for The Kentucky Department of Disability Determinations because I foresaw that I would someday become autonomous myself, and I wanted to begin to establish a private psychological practice.

I performed two types of psychological evaluations. One of these was a "full battery", which consists of a clinical interview, in which the patient is questioned regarding their personal history, mental health history, and their current mental health state. The full battery also includes administration of The Wechsler Adult Intelligence Scale (WAIS-IV). The other type of

evaluation consists of the clinical interview and a mental status examination. Attorneys always requested the full battery. The Kentucky Department of Disability Determination usually requested the clinical interview and mental status examination only.

From the information gathered, I would generate a written narrative report that included my diagnostic impressions regarding the patient as well as my opinions regarding their abilities to perform in the workforce, based on my evaluation results. These reports would then be sent to either the Kentucky Department of Disability Determination or the attorney who had requested the evaluation be performed.

Relationship with Attorney Eric C. Conn

From the questioning I underwent from Mr. Andrew Dockham, it is my understanding that my relationship with attorney Eric C. Conn is the reason I have been invited to testify today. Let me begin by saying I have never had a personal relationship with Mr. Conn. My relationship with him has always been of a business nature. The following is a synopsis of these dealings.

As previously mentioned, around 2003, I became interested in establishing the foundation of a private practice in the field of psychology. At that time, I contacted several local attorneys (one of them being Mr. Conn) and notified them that I was available to perform psychological evaluations. I also became a vendor for the Kentucky Department of Disability Determination around that time.

The process of performing these evaluations was as follows:

- A referral source would make an appointment with me for the patient to be evaluated.
- The evaluation would be performed as previously detailed.
- My notes and information, scores, etc. would be given to my secretary in Thelma, KY.
- My secretary would write up the report for my review.
- The report would be reviewed by me.
- The report would then be faxed to the attorney who made the referral or to the Kentucky Department of Disability Determination, if they had been the entity to make the referral.
- After the attorney had received the report, I would go to their office, where I would do a final review of the report, complete a Residual Functional Capacity (RFC) form, and receive payment.

Question of Residual Functioning Capacity (RFC) forms

Also during questioning from Mr. Andrew Dockham, the question of Residual Functional Capacity forms (from this point on, called RFC's) I had signed became a topic of discussion. In particular, the fact that I had signed these forms when they had been computer printed and filled out by the office of Mr. Eric C. Conn was a matter of interest.

The following is my testimony regarding this matter:

I do not now, nor have I ever, denied having signed the RFC's when they had been completed by Mr. Conn's office staff. However, when I did so, I had no idea that doing so was against any type of procedure or accepted standard.

Please recall that my background prior to beginning doing consultative examinations was primarily in the vocational rehabilitation field. When I began performing consultative examinations for disability purposes, I had no idea how the disability benefits determination process worked. I mistakenly assumed that the people who made the decisions regarding whether an individual would be awarded benefits would be reading my report in its entirety. I also thought ALL claims, whether first time or appeal, went in front of a judge and jury to be decided.

In fact, I did not know that the RFC's were even seen by the determiners. I believed that the RFC's were solely for the benefit of the attorney and were a sort of "summary" of the report I had generated, which was used solely by the attorney in preparation for arguing the individual's case. I believed that each individual case was argued by the attorney in front of a jury and judge each and every time a case was decided. I thought this was the reason that individuals hired an attorney to represent them regarding disability benefits in the first place.

Additionally, each attorney had their own format of the RFC form. They all asked pretty much the same questions, but in different formats or page layouts. There was no uniformity of the layout of the forms, so I figured they were simply a form each office used for summarization when attorneys were reviewing the case "in house". I had no idea of the ultimate destination or use of these forms.

Prior to the RFC's being completed by Mr. Conn's office staff, I would complete them myself when I went to his office to receive payment. I have testified to this earlier. However, before I began signing the forms that were completed by Mr. Conn's office staff, I had gone to work for a local hospital, and I was no longer in private practice solely. In fact, private practice had become a sideline for me at this time. I was no longer able to so easily stop by Mr. Conn's office and sign the RFC's. This is due to the fact that, when in private practice only, my office was in Thelma, Kentucky in rooms I had rented from my secretary at the time as part of a business arrangement. Mr. Conn's office in Stanville, Kentucky is about halfway between my home in Pikeville, Kentucky and Thelma, Kentucky. Therefore, it was quite convenient to stop by Mr. Conn's office and complete the RFC's and receive payment.

At some point, Mr. Conn's staff began bringing the RFC's and reports I had faxed to him to me during lunch breaks or after work at my new employment. Parking was difficult for his staff, and they needed to return to Mr. Conn's office more quickly. I was asked if it was alright if Mr. Conn's staff completed the RFC's before bringing them to me for signature with the report in order to expedite the process and improve efficiency. I said that would be fine as long as I could review the RFC's and make sure they were consistent with my written report. I understand that

there are some of those RFC's in which one small section of the RFC is inconsistent with my written report. However, to be fair, the inconsistency on the RFC's states the patients are better than I had stated in my reports. Therefore, there was indeed an error on those particular RFC's that I did not catch when reviewing them, but the error was in the favor of stating the patients were better than I actually believed them to be. In essence, the error was in the government's favor, by the RFC stating them to be less impaired in that area than I had intended to opine, per my narrative report.

Having said all of the above, I was not given reason at any time to believe there was a break in procedure by signing these RFC's in question. I never received any feedback from any government employee or agency saying this was incorrect to do. If I had received such notice, I would have stopped doing so immediately. Additionally, I do not recall there ever being anything on the RFC's I signed saying that they were for use by the determiners and to be completed by the consultant only. If there had been such an admonition, I surely would not have allowed anyone else to complete them, and then sign them myself.

Additionally, at the time, I suspected no wrong in signing the RFC's because I assumed Mr. Conn's office knew the procedures and protocols of the disability determination process and that they would operate within the prescribed boundaries of the process. I had no cause to think there was anything less than upright occurring because Mr. Conn's office and practice is very well known in my area, and is considered to be quite successful. I assumed they were operating within prescribed parameters for their own sake, if no one else's.

Again, as mentioned earlier, I was also still under the assumption that the RFC forms were for interoffice use by the attorney who had made the referral request for the psychological evaluation.

As a last note, even though I was ignorant of the process of disability determination, I was always aware that it was a program under the control of The United States government. I have also always been aware that this program was funded by United States citizens' tax dollars. Therefore, anything could be reviewed or scrutinized at any time. In addition to my own morals prohibiting me from engaging in any activity that would fleece the government, I would also never have engaged in any such activity knowingly due to the fact that there is such a transparency of records within the disability determination system. In short, since the consultative records of evaluations performed by health professionals are so easily researched, it would have been foolish indeed to knowingly perform outside of prescribed boundaries.

Recommendations and suggestions

Based on the above testimony, I would respectfully and humbly submit the following suggestions and recommendations regarding changes that could be made to clarify and make more efficacious the disability determination process and decrease the chances of inadvertent problems:

- Any professional who performs consultative examinations regarding disability determination should be educated and trained in the disability determination process, from the applicant's first request for benefits through denial or awarding of claims, and appeals.
- Any professional performing consultative examinations regarding disability determination should be required to receive continuing education regarding the aforementioned process or guidelines. This could include review of material previously learned and/or training in new procedures. It would be especially advantageous to the professional if this training and the training in the above recommendation could result in the professional receiving continuing education credits toward their professional licensure.
- There should be required uniformity of all documents used in the decision making process. In addition, all documents should bear a government seal and state fully and understandably their use as well as the parameters assigned to them.
- There should be either static or random review, by government workers, of documents presented to determiners by health professionals and attorneys to ensure they are within parameters prescribed the government. If the documents are not within these parameters, the health professional and the attorney should be notified immediately so that the document can be brought within parameters for reconsideration.
- Regarding the RFC form in particular, there should be a more effective, meaningful way of describing a level of impairment for the health care professional. Traditionally, there have been five boxes per item, only one of which could be checked by the health professional. These are "unlimited", "good", "fair", "poor", and "none". Perhaps a numerical scale of 1-100 with prescribed parameters for assigning a numerical value in a guide or handbook published by The Department of Disability Determination would be more useful.

I testify that if the above measures had been in place when I began performing consultative examinations, they would have been quite invaluable to me in my practice.

Ladies and gentlemen of this committee, thank you again for the invitation to speak today. I hope my testimony has been helpful and contributive to your goals.

May God bless The United States of America.

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