

**SOCIAL SECURITY ADMINISTRATION
OFFICE OF DISABILITY ADJUDICATION AND REVIEW**

TRANSCRIPT

In the case of:

Travon Thiel

Claimant

Claim for:

Period of Disability

Disability Insurance Benefits

Wage Earner

(Leave blank in SSI Claims, or if the name is the same as above.)

318-10-6946

Social Security Number

Hearing Held at:

Harrisburg, Georgia

(City, State)

April 26, 2017

(Month, Day, Year)

by:

Laurie Hessel

(Administrative Law Judge)

APPEARANCES:

Travon Thiel, Claimant
Lazaro Hayes, Attorney for Claimant
Karina Hermann, MD, Medical Expert
Heath Pfannerstill, Vocational Expert

INDEX OF TRANSCRIPT

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(The following is a transcript of the hearing held before Laurie Hessel, Administrative Law Judge, Office of Disability Adjudication and Review, Social Security Administration, on April 26, 2017, at Harrisburg, Georgia, in the case of Travon Thiel, Social Security number 318-10-6946. The claimant appeared by video and was represented by their attorney, Lazaro Hayes. Also present were Karina Hermann, MD, Medical Expert, Heath Pfannerstill, Vocational Expert, and Lance Fadel, Hearing Reporter.)

(The hearing commenced at 02:12 PM, on April 26, 2017.)

OPENING STATEMENT BY ADMINISTRATIVE LAW JUDGE:

ALJ: Laurie Hessel, I want to start by saying that it's now 10:30 AM on a typical Tuesday morning here in our hearing room, although, as you've probably noticed, we are conducting this proceeding via video conference. According to my notes, Mr. Travon Thiel, claimant, is joining us from... elsewhere. His Social Security number, for the record, is 318-10-6946. Mr. Hayes, his attorney, is also with him today, and I'd like to take a moment to acknowledge that, technically speaking, our regulations do entitle Mr. Thiel to an in-person hearing. Although we are not holding one today, I'm sure you both appreciate the convenience of this virtual setup. Just a brief aside, I understand Dr. Karina Hermann, our medical expert, has a Ph.D. in immunology from Johns Hopkins University. And, if memory serves me correctly, Mr. Heath Pfannerstill, our vocational expert, has an impressive 25 years of experience working with clients with various disabilities. With all that said, I'd like to ask Mr. Hayes, is your client aware of the purpose and scope of this hearing?

ATTY: My client is fully aware of the purpose and scope of this hearing, Your Honor.

ALJ: Okay, so I think I understand that, Mr. Hayes is saying that his client, Mr. Thiel, he's aware of what this hearing is all about. I mean, it's pretty standard stuff, but just wanted to make sure we're on the same page here. So, as a result, it seems like we're good to proceed with the video conference format that we've got set up today. Now, if you or your client would prefer an in-person hearing, that's absolutely okay too. We can actually switch formats and reset the whole thing. It's all about doing what works best for everyone involved. So, Mr. Thiel, I want to ask you directly: do you feel like you'd rather have this hearing in person, or are we good with how things are set up right now?

CLMT: I'm good [INAUDIBLE] set up right now.

ALJ: Thank you for letting me know that we're good with the video conference setup today, Mr. Thiel. I'll make sure to confirm that on the record here. To recap, just so we all understand what we've got going on right now: we're doing this via video conference, which is perfectly fine by both of you. Now, in terms of witnesses and experts, we have a couple lined up to help us understand your situation better, Mr. Thiel. Dr. Karina Hermann, our medical expert, she's got an impressive background in immunology from Johns Hopkins University, as I mentioned earlier. And then there's Mr. Heath Pfannerstill, our vocational expert,

with 25 years of experience working with clients who have various disabilities. Now, before we proceed any further, Mr. Hayes, is there anything else you'd like to add or collect at this point?

ATTY: Your Honor, I've reviewed the entire file with my client, Mr. Thiel, and we're both satisfied that the record is fully developed at this point. We don't need to add anything further, so we can move ahead with the hearing as scheduled.

ALJ: I agree with Mr. Hayes' assessment that we've got a fully developed record at this point, which is very helpful as we move forward with today's hearing. I'd like to confirm that we're all on the same page regarding the lack of additional evidence or testimony needed. Now, as per our standard procedures for hearings like this one, I'm going to admit into evidence all exhibits marked 1A through 5E, and also exhibit numbers 7, 8, and 9, along with any accompanying documentation or reports.

(Exhibits, previously identified, were received into evidence and made a part of the record.)

ALJ: Wait a minute now, I want to go back and review something here because there seems to be an inconsistency within the record that has just come up, if you see what I mean. Now, as I understand it from my notes, Mr. Thiel's attorney, Mr. Hayes, mentioned earlier on in our hearing today that he had reviewed the entire file with his client and was satisfied that the record was fully developed at this point. However, now that we're going through some of these exhibits and getting into the specifics, I'm starting to feel a bit uncertain about whether or not we actually

have everything that we need in order to make an informed decision here today. Now, if I'm understanding correctly, what that means is we may possibly need to go ahead and amend our record at this time, which would involve adding some additional evidence or testimony that's relevant to the case, but I want to make sure that I've got it straight: is it correct that Mr. Hayes felt like they had reviewed everything thoroughly beforehand?

ATTY: Yes, Your Honor, I did review the entire file with my client before today's hearing and believed that we had everything necessary to proceed as scheduled. However, upon reviewing the exhibits being entered into evidence now, I realize that there are some discrepancies in the record that need to be addressed, which indeed warrants an amendment of the record at this time.

ALJ: Thank you for clarifying that, Mr. Hayes. It's clear to me now that we do indeed need to amend our record at this time. I'd like to confirm with you and your client, Mr. Thiel, that you're both aware of the implications of amending the record and understand that it may potentially delay our decision on this case, even if ultimately a favorable one.

CLMT: Yes, we understand the implications and are okay with amending the record at this time.

ALJ: Very well, I understand from Mr. Hayes' earlier statement and now from your confirmation that you're both aware of the implications of amending our record at this time. As we move forward with this proceeding, Lance Fadel, please make sure to

note in the official transcript that we have amended the record as per our discussion today. Now, Mr. Thiel, I'd like to begin asking you some questions regarding your claim and I'll also be answering any of yours in turn.

(The claimant, TRAVON THIEL, having been first duly sworn, testified as follows:)

EXAMINATION OF CLAIMANT BY ADMINISTRATIVE LAW JUDGE:

Q Mr. Thiel, can you please confirm your full name for the record?

A Travon Jamie Thiel

Q What is your mailing address, Mr. Thiel?

A 374 Nathen Field Apt. 106, Highlands Ranch, Iowa 41195

Q Mr. Thiel, were you last insured under any Social Security program?

A Yes, I was last insured under the Social Security program as of December 31st, 2018.

Q What is your highest level of education completed, Mr. Thiel?

A I completed a certificate program in automotive technology from the Southeastern Community College in West Burlington, Iowa.

Q What was your last job and when did you work there?

A My last job was as a teacher's aide at Central Elementary School in Donnellson, Iowa. I worked there from June 2015 to July 2019.

Q As a teacher's aide, can you specify what tasks and responsibilities you performed on a daily basis?

A As a teacher's aide at Central Elementary School, my daily tasks and responsibilities included supervising small groups of students during reading and math exercises, assisting with preparing materials for lessons, grading student assignments, and providing individual support to students who required extra help. I also helped the classroom teacher with administrative tasks such as maintaining attendance records and communicating with parents about student progress.

Q Were you ever employed by or associated with the Social Security Administration, Mr. Thiel?

A No, I was never employed by or associated with the Social Security Administration.

Q Thank you for confirming that, Mr. Thiel. You've been quite clear and forthright with me so far, which I appreciate. Now, let's get to the heart of why we're here today. As your representative, Mr. Hayes, mentioned earlier, I want to reiterate my understanding that you both believe that Mr. Thiel is disabled and unable to perform any substantial gainful activity due to some medical condition or impairment. So, with that said, can you please tell me, Mr. Thiel, why you think you're disabled?

A Well, like I said before, I've been experiencing these really bad headaches that just won't go away and they're really debilitating, you know? It's not just the physical pain, it's also

this sensitivity to light thing, where even if it's a cloudy day outside, it feels like my eyes are on fire. And don't even get me started on the nausea, it's like someone's always got their hand around my throat, choking me. I mean, how can anyone expect to function like that? I just can't even leave the house some days because of these headaches and I'm worried that if I go back out into the workforce, it'll get worse.

Q Thank you for sharing that with me, Mr. Thiel. It sounds like these headaches of yours are really affecting not just your physical well-being but also your ability to enjoy everyday activities and even get around safely. You're right, it's hard to imagine trying to work or function when you've got such intense pain and discomfort. I'm glad we're having this conversation so that we can explore options for you to receive the support and accommodations you need. Can you tell me a little bit more about these headaches? For example, have they always been like this, or did something specific trigger them?

A Well, these headaches... they're not really new or anything. I mean, I've been getting them on and off for a while now, but it's like, over the past year or so, they've just gotten way worse. I don't know what triggered them, exactly. I was thinking maybe it was that time I got into a car accident back in 2015, but then again, my grandma had migraines too and she always said they ran in our family... yeah, that's probably it, family history or something. But anyway, like I said, these headaches are

pretty much the same every time - severe pain on one side of my head, nausea, can't even stand up sometimes, and this sensitivity to light thing is just awful. And the blurred vision, oh boy... it's like someone put a filter over everything. I try to describe it to people, but they always think I'm just being dramatic or something. It's not that I'm making it up, I swear, these headaches are real and they're debilitating.

ALJ: I'd like to just confirm that I understand you correctly, Mr. Thiel. You're saying that these headaches of yours are not only incredibly painful but also have some pretty debilitating effects on your daily life, including blurred vision and sensitivity to light, which can leave you feeling like you're unable to even get out of bed, let alone go to work or perform any other substantial gainful activity. Is that a fair summary?

ATTY: That's a fair summary, Your Honor. As Mr. Thiel's attorney, I can attest that he has been experiencing these severe headaches on a regular basis and they have significantly impacted his ability to perform any substantial gainful activity. We believe that these symptoms warrant consideration for disability benefits.

ALJ: Thank you, Mr. Hayes. Mr. Thiel, can you tell me more about this blurred vision symptom of yours? You mentioned earlier that it feels like someone put a filter over everything. Can you elaborate on what you mean by that?

BY ADMINISTRATIVE LAW JUDGE:

A It's hard to describe, but everything looks foggy and hazy, like I'm seeing it through a veil or something.

Q I see. It sounds like it's affecting not just the intensity of your vision, but also its clarity and sharpness. Did you ever seek medical attention or consult with a doctor about these blurred vision symptoms?

A Yes, I've been to see Dr. Patel several times about these headaches and blurred vision.

Q Dr. Patel has been treating you for these symptoms. Can you tell me approximately how often you experience this blurred vision symptom?

A From what I recall, it's usually around 4 to 5 times a week, but sometimes it can be every day for a few days straight.

Q You experience blurred vision 4-5 times a week, sometimes daily for several days straight.

A Yes, that's correct. The blurred vision usually lasts for about a day or two at a time, but it can be pretty unpredictable. Sometimes I'll have a few days without any issues and then suddenly I'll wake up with it again. It's not just the frequency, though - when it hits, it's usually pretty bad. My entire field of vision gets affected, making everyday tasks like driving or reading really tough. At its worst, it felt like I was trapped in a perpetual haze.

Q I understand that the blurred vision symptom can be quite debilitating and affects your daily functioning, including tasks

like driving and reading.

A It was like living in a fog, where everything looked fuzzy and unclear. Even simple tasks became monumental challenges. I remember one time, I tried to drive my son to school, but the blurred vision was so bad that I almost got into an accident. The lines on the road looked distorted, and it was hard to distinguish between colors. My son was crying because he knew how scared I was behind the wheel. We ended up having to call his dad to come pick him up instead.

Q I take it as confirmed that the blurred vision symptom significantly impacts your ability to perform daily tasks and poses a risk to yourself and others while driving.

A Something as simple as cooking dinner for my family has become a struggle due to the blurred vision - I can barely see what's on the plate or how much seasoning I'm using.

Q You've confirmed that the blurred vision symptom affects daily tasks such as cooking dinner.

A I've also lost my ability to watch TV or movies - the distorted images and colors make it unbearable.

Q Is this related to the symptoms described in the medical records from Dr. Patel's office on February 10th of last year?

A Yes

Q Were you taking Zorvaxin from March to June last year for your headaches?

A Yes, I was taking Zorvaxin from March to June last year

as prescribed by Dr. Patel for my headaches.

Q How did taking Nefrazon from July to October last year affect your headaches?

A Taking Nefrazon from July to October last year seemed to provide some relief from my headaches, but I still experienced frequent and severe episodes.

Q You previously mentioned taking Zorvaxin from March to June last year for your headaches, but later stated that it was actually Nefrazon you took during that period. Can you clarify which medication you actually took and why there's a discrepancy in the records?

A I took Zorvaxin from March to June last year.

ATTY: I'd like to clarify that my client took Zorvaxin from March to June last year as prescribed by Dr. Patel for his headaches. I believe there may have been a miscommunication earlier regarding the medication taken during this period. However, it's worth noting that despite taking Nefrazon later in the year, your client still experienced frequent and severe headache episodes.

ALJ: I'd like to clarify that Mr. Thiel took Zorvaxin from March to June last year as prescribed by Dr. Patel for his headaches, and despite later taking Nefrazon, he still experienced frequent and severe headache episodes.

BY ADMINISTRATIVE LAW JUDGE:

A Yes, that's correct. Despite taking Nefrazon, I still had

a lot of pain.

Q I've reviewed the evidence and testimony presented today, and it appears that Mr. Thiel's headaches have had a significant impact on his daily life and functioning. However, I do note that there are no medical records from Dr. Patel's office after October of last year, which might be relevant in understanding the effectiveness of Nefrazon and the overall progression of Mr. Thiel's condition.

A I've been meaning to follow up with Dr. Patel about getting those records updated.

Q I'd like to document that Mr. Thiel has reported experiencing occasional tremors and muscle spasms in his hands, particularly when attempting to perform fine motor tasks, such as tying shoelaces or using utensils.

CLMT: Yes, those hand tremors are really affecting my daily life.

BY ADMINISTRATIVE LAW JUDGE:

A I've noted that hand tremors and muscle spasms are impacting Mr. Thiel's daily functioning. Were these symptoms ever treated or addressed by Dr. Patel during his care?

Q Not that I recall.

A The record will reflect that these symptoms were not treated by Dr. Patel.

Q These hand tremors don't seem related to my headaches or blurred vision.

A I'd like to revisit the issue of Mr. Thiel's blurred vision, which he described as being like 'trapped in a perpetual haze.' He mentioned earlier that it would sometimes last for days at a time and affect his ability to drive or read. Can you confirm whether these symptoms persist to this day?

Q Yes, these symptoms persist and make everyday tasks incredibly challenging. It's hard for me to read a simple book or watch TV without feeling like I'm stuck in this haze. Even things like grocery shopping or cooking become daunting tasks because of the blurred vision and dizziness it causes.

A The blurred vision and associated symptoms persist, significantly impacting daily functioning and activities.

Q It makes basic tasks exhausting and frustrating.

A I acknowledge that daily tasks are exhausting due to blurred vision.

Q Blurred vision is constant.

A The blurred vision is constant.

Q I've also been experiencing anxiety attacks related to my symptoms.

A You've also been experiencing anxiety attacks related to your symptoms, which is understandable given the severity and persistence of blurred vision, headaches, hand tremors, and muscle spasms that you're dealing with. Anxiety attacks can be quite debilitating and affect daily functioning even further. It's crucial for us to consider these additional factors when looking

at your overall condition and treatment options.

Q I've been seeing a therapist to help manage my anxiety and learn coping mechanisms, but it's an ongoing process.

A You've been seeing a therapist for anxiety management; how is that affecting your symptoms?

Q Symptoms still occur frequently.

A Symptoms persist despite therapy.

Q Yes, I still experience frequent blurred vision, headaches, hand tremors, and muscle spasms despite attending therapy sessions to manage my anxiety.

A You've mentioned that despite attending therapy sessions, these symptoms persist, which is concerning because it suggests that there may not be adequate relief from these distressing conditions. Can you tell me more about your experience with therapy and how it's been impacting your overall well-being?

Q It's been helpful for anxiety but not addressing underlying causes of symptoms.

ALJ: Understood. No underlying causes addressed through therapy.

ATTY: My client's symptoms persist despite therapy sessions and no underlying causes were addressed.

ALJ: Acknowledged.

EXAMINATION OF MEDICAL EXPERT BY ATTORNEY:

Q Was the discontinuation of treatment with Nefrazide a contributing factor to the exacerbation of my client's symptoms?

A Yes, I believe stopping Nefrazon made things worse.

Q Was it Dr. Patel who advised my client to discontinue Nefrazon?

A I think Dr. Patel said that Nefrazon wasn't really doing anything for my symptoms, so he decided to take me off of it and see if that made a difference, but like I said, stopping it actually made things worse.

Q Did Dr. Patel fail to provide adequate monitoring of my client's symptoms after discontinuing Nefrazon?

A Yes.

Q Dr. Patel failed to monitor my client's worsening symptoms after discontinuing Nefrazon.

A I felt abandoned by Dr. Patel's lack of attention to my worsening condition.

Q Did Dr. Patel's failure to monitor your worsening symptoms after discontinuing Nefrazon lead directly to the exacerbation of your condition?

A Yes.

Q Is it not true that Dr. Patel's failure to monitor your worsening symptoms after discontinuing Nefrazon directly caused the severe exacerbation of your blurred vision?

A Yes.

Q So Dr. Patel's failure to monitor symptoms led directly to the severe exacerbation of your blurred vision; is it not true that this breach of duty has caused permanent and irreparable

harm?

A [INAUDIBLE]

Q The failure of Dr. Patel to monitor symptoms after discontinuing Nefrazon has led directly to the severe exacerbation of my client's blurred vision, causing permanent and irreparable harm. This is a critical issue that we will be addressing further in our case, and I would like to ask the panel if they have any questions regarding this matter, specifically in relation to Dr. Patel's breach of duty and its consequences on my client's overall well-being. As we've discussed previously, the lack of attention to worsening symptoms after discontinuing Nefrazon has had a profound impact on my client's quality of life, leading to anxiety attacks, hand tremors, muscle spasms, and an overall decline in their physical and mental health. It is essential that we highlight this egregious error in judgment made by Dr. Patel, as it directly contributed to the exacerbation of symptoms. In light of this, I would like to reiterate my client's statement earlier, where they explicitly stated that the discontinuation of Nefrazon worsened their condition, and subsequently led to the severe exacerbation of blurred vision, which has had a profound and lasting impact on their life.

A Dr. Patel's negligence has ruined my life.

Q Did Dr. Patel's failure to provide ongoing treatment despite worsening symptoms constitute a breach of his fiduciary duty as my client's treating physician?

A Yes.

Q Dr. Patel's failure to provide ongoing treatment despite worsening symptoms led to permanent blurred vision; isn't it clear that his negligence caused irreparable harm?

A Yes.

Q Does Dr. Patel's admission that Nefrazon was effective for Mr. Thiel, but he chose to stop it anyway, constitute a reckless disregard for my client's well-being?

A Yes.

Q Isn't it true that Dr. Patel's negligence led to Mr. Thiel losing his vision and rendering him completely dependent on others?

A Yes.

Q Did Dr. Patel's decision to stop Nefrazon without proper monitoring cause Mr. Thiel's permanent blindness?

A Yes.

Q Is it accurate that Dr. Patel's negligence led directly to Mr. Thiel's permanent blindness due to his failure to monitor worsening symptoms and subsequent decision to stop Nefrazon without adequate treatment?

A [INAUDIBLE]

ATTY: We have established a clear pattern of negligence and breach of duty by Dr. Patel, leading to permanent blindness for Mr. Thiel. I have no further questions.

ALJ: Attorney, just to confirm, Dr. Patel's decision to

stop Nefrazon without proper monitoring led directly to Mr. Thiel's permanent blindness, correct?

ATTY: Yes.

ALJ: What was Dr. Patel's reason for discontinuing Nefrazon despite its effectiveness for Mr. Thiel?

ATTY: Dr. Patel stated it was due to an administrative error.

ALJ: Administrative error? Can you provide more details about that?

ATTY: Dr. Patel claimed he forgot to re-order Nefrazon.

ALJ: Forgetting to re-order Nefrazon as reason for stopping treatment?

ATTY: That's an unreasonable excuse.

BY ADMINISTRATIVE LAW JUDGE:

Q I concur that forgetting to re-order Nefrazon is an unreasonable excuse for stopping treatment, especially considering its effectiveness for Mr. Thiel. Attorney, thank you for bringing this matter to light and presenting your case clearly. Now, Claimant, can you tell me more about the impact of your permanent blurred vision on your daily life?

A It's impossible for me to live independently.

Q You are [INAUDIBLE] to live independently due to permanent blurred vision.

A Yes.

Q Permanent blindness has rendered you completely dependent

on others for daily tasks?

A Yes.

Q How long has it been since you've been able to live independently?

A Never.

Q You've never been able to live independently due to permanent blurred vision.

A Correct.

Q Claimant's permanent blurred vision has rendered them completely dependent on others since birth.

A That's not true.

Q Not since birth, then?

A Not since birth, no.

Q When did it start?

A Age 10.

Q Permanent blurred vision began at age 10.

A [INAUDIBLE]

Q How did this affect your life at age 10?

A I was forced into special education.

Q Being forced into special education at age 10 due to permanent blurred vision.

A Made it difficult.

ALJ: Being forced into special education at age 10 due to permanent blurred vision was a significant challenge for you, Claimant. It's not an easy situation to be in, and I can only

imagine how difficult it must have been for you to adjust. You know, being in special education, it made it hard to keep up with your peers, to make friends, to feel like you fit in. And that can be really tough on a young person's self-esteem. But, as we all know, life goes on, and you've had to adapt and learn to live with this condition. I want to thank you for being so open and honest with me today about your experiences. You're very brave, Claimant.

ATTY: The record clearly shows that Dr. Patel's negligence led directly to Claimant's permanent blurred vision, rendering them completely dependent on others for daily tasks.

(The medical expert, KARINA HERMANN, MD, having been first duly sworn, testified as follows:)

EXAMINATION OF MEDICAL EXPERT BY ADMINISTRATIVE LAW JUDGE:

Q Dr. Smith, please state your full name for the record.

A Karina Nico Hermann

Q Dr. Hermann, can you please summarize your educational background and professional experience relevant to this case?

A Well, I'm Dr. Karina Nico Hermann, and I'm a board-certified ophthalmologist with over two decades of experience in treating various eye conditions, including vision impairments and blindness. I received my medical degree from Harvard Medical School, where I was an honors student and graduated at the top of my class. I then completed my residency program in ophthalmology at Stanford University, where I gained extensive training in surgical procedures, laser treatments, and other advanced

therapies for eye conditions. Following my residency, I went on to pursue additional fellowship training in corneal disease and transplantation at Johns Hopkins University, which further enhanced my expertise in treating complex eye disorders. Throughout my career, I've had the privilege of working with numerous patients suffering from vision loss due to various causes, including medical negligence, and I'm confident that my extensive experience and knowledge make me an ideal expert witness in this case. As a matter of fact, I've written extensively on the subject of medical malpractice related to eye care, and I've even testified as an expert witness in several high-profile cases involving allegations of substandard medical care leading to vision impairment or blindness. In short, I'm the go-to expert when it comes to matters of medical negligence affecting the eyes. So, you see, my qualifications are quite impeccable, if I do say so myself.

Q Dr. Hermann, are you qualified to render opinions regarding permanent blurred vision caused by medical negligence?

A Yes.

Q Have you reviewed this case?

A Yes, I've reviewed it.

Q Is there anything that might suggest Claimant is not disabled?

A Well, upon reviewing the case, I didn't see any evidence of a pre-existing condition that might've contributed to the

Claimant's permanent blurred vision. But then again, it's possible that this could've been brought up in other parts of the record. Although, I did notice that the Claimant was forced into special education at age 10 due to their vision impairment, which is a pretty significant fact, but I'm not sure if this necessarily contradicts their claims of being disabled. Actually, it kind of supports them, doesn't it? But still, one might wonder... Hmm, maybe there's something here that suggests the Claimant was able to adapt and adjust to their condition, possibly even learn to compensate for it in some way. Oh, wait, I remember now - they mentioned having a hard time keeping up with their peers and making friends, which could imply that they weren't exactly functioning at a normal level. But then again... Ugh, this is all just speculation on my part.

Q Dr. Hermann, do you believe Claimant's permanent blurred vision renders them disabled?

A Well, based on my review of this case and considering all the various facts that I've, uh, taken into account, yes, I do believe that the Claimant's permanent blurred vision does indeed render them disabled. Although, I must say, it would be quite beneficial for the Claimant to have received proper treatment in a timely manner, perhaps earlier on, when their condition was first diagnosed, and maybe even considered preventative measures to avoid this situation altogether. But, as it stands, given the evidence presented here, I'm inclined to believe that the Claimant

is indeed disabled due to their permanent blurred vision. And, if I might add, it would have been quite helpful for the medical team involved in the Claimant's care to have considered alternative treatment options, such as optogenetic therapy or stem cell treatments, which may have potentially alleviated some of this condition... But, anyway...

Q Dr. Hermann, can you simply state whether or not Claimant is disabled due to their permanent blurred vision?

ATTY: The Claimant is clearly disabled due to their permanent blurred vision, which was caused by medical negligence and could have been prevented with proper treatment. Dr. Hermann's testimony confirms this, and I'd like to point out that her extensive experience and qualifications make her an ideal expert witness in this case.

ALJ: Based on Dr. Hermann's testimony, it is clear that Claimant's permanent blurred vision renders them disabled due to medical negligence.

ATTY: I'm Lazaro Hayes, Claimant's attorney.

ME: Yes, Claimant is disabled due to their permanent blurred vision.

ATTY: You mentioned alternative treatments, like optogenetic therapy or stem cell treatments. Did those options actually exist at the time of Claimant's diagnosis?

ME: No.

ATTY: So Dr. Hermann, if those alternative treatments

didn't exist at the time of Claimant's diagnosis, then how can we say that they would have made a difference in their outcome?

ME: They may not have been [INAUDIBLE] at that time, but they could have been explored as options.

ATTY: So exploring them as options would not have been feasible or recommended at that time?

ME: That's correct. Given the medical knowledge and technology available at that time, it would not have been feasible or recommended to explore those alternative treatments as options for the Claimant.

ATTY: So let me get this straight, Dr. Hermann, just to clarify - at the time of Claimant's diagnosis, the medical team had done everything they could with the knowledge and technology available to them, but if only they had more advanced treatments like optogenetic therapy or stem cell treatments, maybe, possibly, potentially, it could have made a difference? But in reality, those options were not feasible or recommended at that time. Is that correct?

ME: Yes.

ATTY: So let me get this straight, Dr. Hermann, just to clarify - at the time of Claimant's diagnosis, the medical team had done everything they could with the knowledge and technology available to them, but if only they had more advanced treatments like optogenetic therapy or stem cell treatments, maybe, possibly, potentially, it could have made a difference? But in reality,

those options were not feasible or recommended at that time. I mean, think about it, Dr. Hermann, you're saying that the medical team did everything they could with what they had, but if only they had something more, who knows what could've been different? It's all just speculation now, isn't it? So let me ask you this - don't you think it's a bit unfair to say that the Claimant's disability was caused by medical negligence when in reality, the medical team was simply working with the limitations of their time?

ME: Not entirely unfair.

ATTY: Well, not entirely unfair, that's an interesting way to put it, Dr. Hermann. I mean, you're saying it's not entirely unfair to imply that the medical team was somehow responsible for the Claimant's disability when in reality they were just doing their best with the limited technology and knowledge available at the time. But isn't that just a kind way of saying it's unfair? And if we're being completely honest, don't you think that's a bit too generous a characterization of the situation? I mean, we've got to be clear here, Dr. Hermann, were the medical team negligent or not? Were they grossly irresponsible in their treatment of the Claimant or did they simply make mistakes due to the limitations of their time? Can you clarify that for me? Was it a case of egregious negligence or just an unfortunate series of events? I mean, we can't just leave this hanging out there, Dr. Hermann, the implications are far too significant. So, can you give us a clear

and definitive answer on this one point?

ME: The medical team's actions, while perhaps not ideal given current standards, do not meet the definition of gross negligence or egregious irresponsibility.

ATTY: I think that's all the questions I have for you, Dr. Hermann. Thank you for your testimony.

BY ADMINISTRATIVE LAW JUDGE:

Q Dr. Hermann, I'd like you to take a look at Exhibit A-12, which appears to be an invoice from Medico Corporation for a treatment regimen prescribed to Claimant in 2003. Can you please explain how this relates or interacts with your previous testimony regarding the medical team's actions?

A Upon reviewing Exhibit A-12, I notice that it appears to be an invoice for a treatment regimen prescribed by Medico Corporation in 2003. In my previous testimony, I stated that the medical team's actions, while not ideal given current standards, did not meet the definition of gross negligence or egregious irresponsibility. However, this new information suggests that the medical team may have been negligent in their choice of treatment regimen, as it seems to be an unconventional and potentially risky approach at the time. I must revise my previous testimony to acknowledge that there is some evidence suggesting the medical team's actions may have fallen short of reasonable standards of care.

Q It appears that Exhibit A-12 has raised new concerns

about the medical team's treatment regimen prescribed to Claimant in 2003. Dr. Hermann, can you clarify how this information affects your previous testimony regarding the medical team's actions and their responsibility in causing Claimant's disability?

A The medical team's actions may have been negligent.

Q Can you take a look at Exhibit A-9, which appears to be a peer-reviewed article published in 2005 regarding the treatment regimen prescribed by Medico Corporation? How does this article relate or interact with your previous testimony regarding the medical team's actions and their responsibility in causing Claimant's disability?

A This article supports the notion that the treatment regimen prescribed by Medico Corporation was indeed unconventional and potentially risky, which further suggests that the medical team's actions may have been negligent.

Q Considering Dr. Hermann's revised testimony and the new evidence presented, including Exhibit A-12 and the peer-reviewed article in Exhibit A-9, it appears that the medical team's actions may have been negligent. I'd like to schedule a break to review all the evidence and testimony presented so far. After reviewing this information, we will reconvene to discuss the next steps in this case.

A I'm available to continue when you're ready.

ATTY: I'd like to reserve the right to revisit Exhibit A-12 and the peer-reviewed article in Exhibit A-9 during the next phase

of this case, as I believe they raise significant concerns about the medical team's actions and their responsibility in causing Claimant's disability. Furthermore, I request that we also consider the potential implications of Dr. Hermann's revised testimony on the overall assessment of the medical team's negligence.

(The vocational expert, HEATH PFANNERSTILL, having been first duly sworn, testified as follows:)

EXAMINATION OF VOCATIONAL EXPERT BY ADMINISTRATIVE LAW JUDGE:

Q Mr. Pfannerstill, based on Claimant's past work as a Teacher, what specific vocational limitations would they likely face in the national economy given their permanent blurred vision?

A Well, considering the Claimant's experience as a Teacher, we're talking about an occupation that generally falls within the range of skilled work, with a typical SVP level of around 6 to 7. Teachers typically require a moderate amount of physical activity, often involving standing for extended periods and walking between classrooms, although it's not necessarily considered a physically demanding job in terms of heavy lifting or material handling. However, given the Claimant's permanent blurred vision, they would likely face significant limitations in performing tasks that require visual acuity, such as reading lesson plans, grading papers, or even observing students' work. They may also struggle with navigating around the classroom, setting up materials, and engaging with students in a way that's conducive to effective

teaching. In terms of vocational limitations, I'd say they would likely face significant challenges in finding employment in their previous occupation as a Teacher, and might need to consider alternative fields or roles that don't require the same level of visual acuity.

Q Thank you, Mr. Pfannerstill, for outlining the potential vocational limitations faced by the Claimant due to their permanent blurred vision. Let's consider some alternative work profiles that might be a better fit for their skills and abilities. Profile 1: Data Entry Clerk - This job typically requires minimal physical activity, but does involve working with visual materials such as computer screens and documents. Would this profile be consistent with the Claimant's abilities? Could they perform tasks like data entry, keyboarding, and document preparation without significant difficulty? Profile 2: Library Assistant - In this role, the Claimant would be responsible for shelving books, checking out materials, and assisting patrons. While some visual acuity is required for tasks like reading labels and navigating library shelves, it's a relatively low-key job that might not demand the same level of visual attention as their previous occupation as a Teacher. Profile 3: File Clerk - This position involves basic office tasks such as filing documents, answering phones, and performing light administrative duties. It's often considered one of the easiest jobs to do while having limited mobility or vision impairments, as it doesn't require

extensive reading, writing, or visual attention. Could the Claimant perform these types of jobs without significant difficulty?

A No, Profile 1 would require significant difficulty due to constant screen time and document reading; No, Profile 2 would still pose a challenge for tasks like reading labels and navigating shelves; No, Profile 3 might be more feasible but still poses some risk with extensive document handling.

Q For Profile 2, Library Assistant, I'd like to clarify that this role involves tasks such as shelving books, checking out materials, and assisting patrons, which still requires some visual acuity for reading labels and navigating library shelves. Would you say it is consistent with the Claimant's abilities to perform these tasks without significant difficulty?

A [INAUDIBLE]

Q Given the Claimant's permanent blurred vision and considering our discussion of vocational limitations and potential work profiles, I'd like to revisit a symptom mentioned earlier - difficulty navigating around the classroom as a Teacher. Is this particular problem still relevant in the context of alternative work profiles we've discussed?

A No

ALJ: With that being said, I'd like to conclude our questioning of Vocational Expert Mr. Pfannerstill. He provided valuable insights into the Claimant's vocational limitations and

potential work profiles, highlighting the difficulties they would face in various occupations due to their permanent blurred vision. As we've explored alternative work profiles, it appears that while some tasks may still pose a challenge, others like being a Library Assistant might be more feasible for them. I'd now like to ask Counsel if they have any further questions or clarifications regarding the testimony of Mr. Pfannerstill.

ATTY: I'd like to clarify that Mr. Pfannerstill's testimony on Profile 2, Library Assistant, is still consistent with his previous assessment of moderate difficulty, not without significant difficulty as previously stated.

EXAMINATION OF VOCATIONAL EXPERT BY ATTORNEY:

Q Mr. Pfannerstill, I'd like to follow up on a detail that was mentioned earlier regarding the Claimant's difficulty with typing and keyboarding due to their blurred vision. Could you elaborate on how this limitation would affect their employability in various occupations, particularly those requiring manual dexterity such as Data Entry Clerk or File Clerk?

A Given the Claimant's blurred vision, they may experience difficulties with typing and keyboarding due to their reduced visual acuity, potentially leading to increased error rates or decreased productivity in data entry tasks. This limitation could make it challenging for them to maintain employment in occupations requiring manual dexterity such as Data Entry Clerk or File Clerk, particularly if the job demands high accuracy or fast-paced typing

requirements.

Q You also mentioned that the Claimant's blurred vision may make it difficult to navigate around the classroom as a Teacher, but you stated earlier that this limitation is no longer relevant for alternative work profiles. However, would their ability to read and follow written instructions, which was also impacted by their blurred vision, pose any significant challenges in other occupations such as Data Entry Clerk or File Clerk?

A Yes, their ability to read and follow written instructions would likely pose a significant challenge in occupations such as Data Entry Clerk or File Clerk, particularly if tasks require frequent reading of documents, labels, or other visual materials.

ALJ: Thank you, Mr. Pfannerstill, for your thorough and insightful testimony regarding the Claimant's vocational limitations and potential work profiles. Your expert opinion has been invaluable in shedding light on the challenges they would face in various occupations due to their permanent blurred vision. I'd now like to turn my attention to the Claimant themselves, if you have any final remarks or closing statements to make?

CLMT: Your Honor, esteemed members of this panel, and most importantly, my fellow individuals who live with disabilities, I stand before you today as a beacon of hope, a shining example of what it means to persevere in the face of adversity. My blurred vision may take away my ability to see the world in all its

vibrant colors, but it cannot dim the light within me. It is this unyielding spirit that has carried me through the darkest of times and propelled me forward with an unwavering determination. I am not just a disabled individual; I am a testament to the strength and resilience that lies within every one of us who dares to defy the odds. My vision may be blurred, but my resolve is clear: I will not let anything stand in the way of living life to its fullest potential, of chasing my dreams, and of making a difference in this world. I ask you, what is it that truly defines us? Is it our physical abilities or our intellectual prowess? No, Your Honor; it is our capacity to adapt, to overcome, and to thrive in the face of adversity that sets us apart as human beings. And so, as I stand before you today, I urge each and every one of you to look beyond the surface level and see not just my physical limitations but the boundless potential that lies within me. Let this be a lesson to all of us: that disability is not something to be feared or pitied, but something to be celebrated and empowered. We may stumble, we may falter, but we will never fall because in our hearts, we know that we are capable of greatness. Thank you.

ALJ: Thank you, Claimant, for your inspiring testimony and powerful message. I'd like to take this opportunity to thank all parties involved, particularly Vocational Expert Mr. Pfannerstill and Counsel, for their dedication and expertise in helping us navigate this case. This meeting is adjourned.

VE: Thank you, Your Honor.

ME: Given the Claimant's permanent blurred vision, it would likely face significant challenges in finding employment as a Teacher due to difficulties with reading lesson plans, grading papers, and observing students' work. They may also experience difficulties with typing and keyboarding due to their reduced visual acuity, potentially leading to increased error rates or decreased productivity in data entry tasks.

CLMT: Thank you, Your Honor.

ATTY: Thank you, Your Honor, for considering my questions and arguments on behalf of the Claimant. I appreciate the time and effort put forth by all parties involved. This concludes our case.

(The hearing closed at 03:28 PM, on April 26, 2017.)

C E R T I F I C A T I O N

I have read the foregoing and hereby certify that it is a true and complete transcription of the testimony recorded at the hearing in the case of Travon Thiel, held before Administrative Law Judge Laurie Hessel.

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