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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

BRIAN BICE,)	Case No. ED CV 10-1826 PJW
)	
Plaintiff,)	
)	MEMORANDUM OPINION AND ORDER
v.)	
)	
MICHAEL J. ASTRUE,)	
COMMISSIONER OF THE)	
SOCIAL SECURITY ADMINISTRATION,)	
)	
Defendant.)	

Before the Court is Plaintiff's appeal of a decision by Defendant Social Security Administration ("the Agency"), denying his application for Supplemental Security Income ("SSI"). Plaintiff claims that the Administrative Law Judge ("ALJ") erred when he accepted the vocational expert's testimony that Plaintiff was capable of working as a cashier, office clerk, and storage facility rental clerk. In Plaintiff's view, his physical limitations preclude him from performing these jobs and the vocational expert's testimony that he could was inconsistent with the Dictionary of Occupational Titles ("DOT"). For the reasons explained below, the Court concludes that the ALJ did not err.

1 In December 2007, Plaintiff applied for SSI, alleging that he was
2 unable to work due to the lingering effects of injuries to his left
3 arm, right knee, and back that he suffered in a motorcycle accident.
4 (Administrative Record ("AR") 27, 123-25, 149.) The ALJ determined
5 that Plaintiff was limited to light work and could not lift more than
6 ten pounds with his left arm, could not forcefully grasp and torque
7 with that arm, and could not kneel on his right knee. (AR 11.) The
8 vocational expert determined that a hypothetical person with these
9 limitations could perform the work of cashier, DOT No. 211.462-010,
10 office clerk, DOT No. 239.567-010, and storage facility rental clerk,
11 DOT No. 295.367-026. (AR 54-56.) The ALJ accepted the vocational
12 expert's testimony and, as a result, concluded that Plaintiff could
13 work at these jobs and was, therefore, not disabled.

14 Plaintiff contends that the ALJ and the vocational expert were
15 mistaken. He argues that these jobs require frequent forceful
16 grasping and torquing with his left arm. (Joint Stip. at 4-9.) He
17 explains, for example, that a storage facility rental clerk is
18 required to fill out rental agreements, photograph renters, and load
19 film into a security camera and argues that these activities require
20 forceful grasping and torquing with his left arm. (Joint Stip. at 8.)

21 The Court could not disagree more. The DOT description of this
22 job does not include a requirement of forceful grasping or torquing.
23 Nor is Plaintiff's argument that it does the least bit persuasive,
24 particularly in light of the fact that Plaintiff is right-handed. (AR
25 165.) The same holds true for the other two jobs.¹ As such, this
26 argument is rejected.

27

28 ¹ The Court has attached the DOT entries for all three jobs.

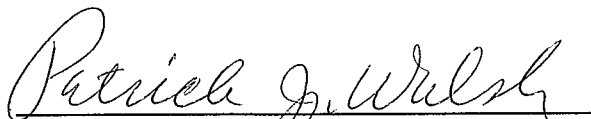
1 Plaintiff notes that the DOT entry for the storage facility
2 rental clerk job includes a requirement for occasional kneeling.
3 (Joint Stip. at 8.) He points out that, as the ALJ found, he is
4 precluded from kneeling on his right knee. He claims that this means
5 that he is not capable of performing this job. (Joint Stip. at 8.)

6 The response to this argument is obvious. Plaintiff is not
7 restricted from kneeling on his left knee. Thus, the fact that the
8 job requires occasional kneeling does not preclude Plaintiff from
9 performing it since he can kneel on his left knee.

10 Contrary to Plaintiff's arguments, the DOT descriptions of these
11 jobs do not include a requirement for grasping or torquing. Nor is it
12 reasonable to read into the descriptions such requirements. As such,
13 Plaintiff's argument that the ALJ and the vocational expert erred when
14 they concluded that he could perform the jobs of cashier, clerk, and
15 storage facility rental clerk despite his limitations is without
16 merit. For this reason, the Agency's decision denying Plaintiff's
17 application for SSI is affirmed and the case is dismissed with
18 prejudice.

19 IT IS SO ORDERED.

20 DATED: September 23, 2011.

21
22
23 
24 PATRICK J. WALSH
25 UNITED STATES MAGISTRATE JUDGE
26
27

28 S:\PJW\Cases-Soc Sec\BICE, B 1826\memo opinion and order.wpd

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DICOT 211.462-010

DICTIONARY OF OCCUPATIONAL TITLES
Fourth Edition, Revised 1991

Occupational Group Arrangement

2 Clerical and Sales Occupations
21 Computing and Account-Recording Occupations
211 Cashiers and Tellers

211

462

010

CASHIER II

Industry Designation: Clerical and Kindred Occupations

Alternate Titles: Cash Clerk; Cashier, General; Cashier, Office; Ticket Clerk

Receives cash from customers or employees in payment for goods or services and records amounts received; Re-computes or computes bill, itemized lists, and tickets showing amount due, using adding machine or cash register. Makes change, cashes checks, and issues receipts or tickets to customers. Records amounts received and prepares reports of transactions. Reads and records totals shown on cash register tape and verifies against cash on hand. May be required to know value and features of items for which money is received. May give cash refunds or issue credit memorandums to customers for returned merchandise. May operate ticket-dispensing machine. May operate cash register with peripheral electronic data processing equipment by passing individual price coded items across electronic scanner to record price, compile printed list, and display cost of customer purchase, tax, and rebates on monitor screen. May sell candy, cigarettes, gum, and gift certificates, and issue trading stamps. May be designated according to nature of establishment as Cafeteria Cashier (hotel & rest.); Cashier, Parking Lot (automotive ser.); Dining-Room Cashier (hotel & rest.); Service-Bar Cashier (hotel & rest.); Store Cashier (clerical); or according to type of account as Cashier, Credit (clerical); Cashier, Payments Received (clerical). May press numeric keys of computer corresponding to gasoline pump to reset meter on pump and to record amount of sale and be designated Cashier, Self-Service Gasoline (automotive ser.). May receive money, make change, and cash checks for sales personnel on same floor and be designated Floor Cashier (clerical). May make change for patrons at places of amusement other than gambling establishments and be designated Change-Booth Cashier (amuse. & rec.).

GUIDE FOR OCCUPATIONAL EXPLORATION: 07.03.01

STRENGTH: Light Work - Exerting up to 20 pounds of force occasionally (Occasionally: activity or condition exists up to 1/3 of the time) and/or up to 10 pounds of force frequently (Frequently: activity or condition exists

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from 1/3 to 2/3 of the time) and/or a negligible amount of force constantly (Constantly: activity or condition exists 2/3 or more of the time) to move objects. Physical demand requirements are in excess of those for Sedentary Work. Even though the weight lifted may be only a negligible amount, a job should be rated Light Work: (1) when it requires walking or standing to a significant degree; or (2) when it requires sitting most of the time but entails pushing and/or pulling of arm or leg controls; and/or (3) when the job requires working at a production rate pace entailing the constant pushing and/or pulling of materials even though the weight of those materials is negligible.

Reasoning: Level 3 - Apply commonsense understanding to carry out instructions furnished in written, oral, or diagrammatic form. Deal with problems involving several concrete variables in or from standardized situations.

Math: Level 2 - Add, subtract, multiply, and divide all units of measure. Perform the four operations with like common and decimal fractions. Compute ratio, rate, and percent. Draw and interpret bar graphs. Perform arithmetic operations involving all American monetary units.

Language: Level 2 - READING: Passive vocabulary of 5,000-6,000 words. Read at rate of 190-215 words per minute. Read adventure stories and comic books, looking up unfamiliar words in dictionary for meaning, spelling, and pronunciation. Read instructions for assembling model cars and airplanes.

WRITING: Write compound and complex sentences, using cursive style, proper end punctuation, and employing adjectives and adverbs.

SPEAKING: Speak clearly and distinctly with appropriate pauses and emphasis, correct punctuation, variations in word order, using present, perfect, and future tenses.

SPECIFIC VOCATIONAL PREPARATION: Level 2 - Anything beyond short demonstration up to and including 1 month

Data: 4 - Computing

S - Significant

People: 6 - Speaking-Signalling

S - Significant

Things: 2 - Operating-Controlling

N - Not Significant

Field 1: 232 - Numerical Recording-Recordkeeping

Field 1: 880 - MERCHANDISING SERVICES

General Learning Ability: Level 3 - Middle 1/3 of the Population

Medium Degree of Aptitude Ability

Verbal Aptitude: Level 3 - Middle 1/3 of the Population

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Medium Degree of Aptitude Ability

Numerical Aptitude: Level 3 - Middle 1/3 of the Population

Medium Degree of Aptitude Ability

Spacial Aptitude: Level 4 - Lowest 1/3 Excluding Bottom 10%

Low Degree of Aptitude Ability

Form Perception: Level 4 - Lowest 1/3 Excluding Bottom 10%

Low Degree of Aptitude Ability

Clerical Perception: Level 3 - Middle 1/3 of the Population

Medium Degree of Aptitude Ability

Motor Coordination: Level 3 - Middle 1/3 of the Population

Medium Degree of Aptitude Ability

Finger Dexterity: Level 3 - Middle 1/3 of the Population

Medium Degree of Aptitude Ability

Manual Dexterity: Level 4 - Lowest 1/3 Excluding Bottom 10%

Low Degree of Aptitude Ability

Eye-Hand-Foot Coordination: Level 5 - Bottom 10% of the Population

Markedly Low Aptitude Ability

Color Discrimination: Level 5 - Bottom 10% of the Population

Markedly Low Aptitude Ability

T: Attaining precise set limits, TOLERANCES, and standards

P: Dealing with PEOPLE

Climbing: Not Present - Activity or condition does not exist

Balancing: Not Present - Activity or condition does not exist

Stooping: Not Present - Activity or condition does not exist

Kneeling: Not Present - Activity or condition does not exist

Crouching: Not Present - Activity or condition does not exist

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Crawling: Not Present - Activity or condition does not exist

Reaching: Frequently - Exists from 1/3 to 2/3 of the time

Handling: Frequently - Exists from 1/3 to 2/3 of the time

Fingering: Frequently - Exists from 1/3 to 2/3 of the time

Feeling: Not Present - Activity or condition does not exist

Talking: Frequently - Exists from 1/3 to 2/3 of the time

Hearing: Frequently - Exists from 1/3 to 2/3 of the time

Tasting/Smelling: Not Present - Activity or condition does not exist

Near Acuity: Frequently - Exists from 1/3 to 2/3 of the time

Far Acuity: Not Present - Activity or condition does not exist

Depth Perception: Not Present - Activity or condition does not exist

Accommodation: Not Present - Activity or condition does not exist

Color Vision: Not Present - Activity or condition does not exist

Field of Vision: Not Present - Activity or condition does not exist

Exposure to Weather: Not Present - Activity or condition does not exist

Extreme Cold: Not Present - Activity or condition does not exist

Extreme Heat: Not Present - Activity or condition does not exist

Wet and/or Humid: Not Present - Activity or condition does not exist

Noise Level: Level 3 - Moderate

Vibration: Not Present - Activity or condition does not exist

Atmospheric Cond.: Not Present - Activity or condition does not exist

Moving Mech. Parts: Not Present - Activity or condition does not exist

Electric Shock: Not Present - Activity or condition does not exist

High Exposed Places: Not Present - Activity or condition does not exist

Radiation: Not Present - Activity or condition does not exist

Explosives: Not Present - Activity or condition does not exist

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Toxic Caustic Chem.: Not Present - Activity or condition does not exist

Other Env. Cond.: Not Present - Activity or condition does not exist

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DICOT 239.567-010

DICTIONARY OF OCCUPATIONAL TITLES
Fourth Edition, Revised 1991

Occupational Group Arrangement

2 Clerical and Sales Occupations
23 Information and Message Distribution Occupations
239 Information and Message Distribution Occupations, N.E.C.
239

567

010

OFFICE HELPER

Industry Designation: Clerical and Kindred Occupations

Performs any combination of following duties in business office of commercial or industrial establishment: Furnishes workers with clerical supplies. Opens, sorts, and distributes incoming mail, and collects, seals, and stamps outgoing mail. Delivers oral or written messages. Collects and distributes paperwork, such as records or timecards, from one department to another. Marks, tabulates, and files articles and records. May use office equipment, such as envelope-sealing machine, letter opener, record shaver, stamping machine, and transcribing machine. May deliver items to other business establishments [DELIVERER, OUTSIDE (clerical) 230.663-010]. May specialize in delivering mail, messages, documents, and packages between departments of establishment and be designated Messenger, Office (clerical). May deliver stock certificates and bonds within and between stock brokerage offices and be designated Runner (financial).

GUIDE FOR OCCUPATIONAL EXPLORATION: 07.07.03

STRENGTH: Light Work - Exerting up to 20 pounds of force occasionally (Occasionally: activity or condition exists up to 1/3 of the time) and/or up to 10 pounds of force frequently (Frequently: activity or condition exists from 1/3 to 2/3 of the time) and/or a negligible amount of force constantly (Constantly: activity or condition exists 2/3 or more of the time) to move objects. Physical demand requirements are in excess of those for Sedentary Work. Even though the weight lifted may be only a negligible amount, a job should be rated Light Work: (1) when it requires walking or standing to a significant degree; or (2) when it requires sitting most of the time but entails pushing and/or pulling of arm or leg controls; and/or (3) when the job requires working at a production rate pace entailing the constant pushing and/or pulling of materials even though the weight of those materials is negligible.

Reasoning: Level 2 - Apply commonsense understanding to carry out detailed but uninvolved written or oral

instructions. Deal with problems involving a few concrete variables in or from standardized situations.

Math: Level 2 - Add, subtract, multiply, and divide all units of measure. Perform the four operations with like common and decimal fractions. Compute ratio, rate, and percent. Draw and interpret bar graphs. Perform arithmetic operations involving all American monetary units.

Language: Level 2 - **READING:** Passive vocabulary of 5,000-6,000 words. Read at rate of 190-215 words per minute. Read adventure stories and comic books, looking up unfamiliar words in dictionary for meaning, spelling, and pronunciation. Read instructions for assembling model cars and airplanes.

WRITING: Write compound and complex sentences, using cursive style, proper end punctuation, and employing adjectives and adverbs.

SPEAKING: Speak clearly and distinctly with appropriate pauses and emphasis, correct punctuation, variations in word order, using present, perfect, and future tenses.

SPECIFIC VOCATIONAL PREPARATION: Level 2 - Anything beyond short demonstration up to and including 1 month

Data: 5 - Copying

S - Significant

People: 6 - Speaking-Signalling

N - Not Significant

Things: 7 - Handling

S - Significant

Field 1: 231 - Verbal Recording-Record Keeping

Field 2: 011 - Material Moving

Field 3: 221 - Stock Checking

Field 1: 890 - GENERAL BUSINESS, FINANCE, INSURANCE, AND REAL ESTATE SERVICES

Field 2: 899 - General Business, Finance, Insurance, and Real Estate Services, n.e.c. (telephone message, news reporting, press clipping, trading stamp, commercial testing laboratory, bail bonding, commercial diving, messenger, sign painting and lettering, etc.)

General Learning Ability: Level 3 - Middle 1/3 of the Population

Medium Degree of Aptitude Ability

Verbal Aptitude: Level 4 - Lowest 1/3 Excluding Bottom 10%

Low Degree of Aptitude Ability

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Numerical Aptitude: Level 4 - Lowest 1/3 Excluding Bottom 10%

Low Degree of Aptitude Ability

Spacial Aptitude: Level 4 - Lowest 1/3 Excluding Bottom 10%

Low Degree of Aptitude Ability

Form Perception: Level 4 - Lowest 1/3 Excluding Bottom 10%

Low Degree of Aptitude Ability

Clerical Perception: Level 3 - Middle 1/3 of the Population

Medium Degree of Aptitude Ability

Motor Coordination: Level 4 - Lowest 1/3 Excluding Bottom 10%

Low Degree of Aptitude Ability

Finger Dexterity: Level 3 - Middle 1/3 of the Population

Medium Degree of Aptitude Ability

Manual Dexterity: Level 3 - Middle 1/3 of the Population

Medium Degree of Aptitude Ability

Eye-Hand-Foot Coordination: Level 5 - Bottom 10% of the Population

Markedly Low Aptitude Ability

Color Discrimination: Level 5 - Bottom 10% of the Population

Markedly Low Aptitude Ability

V: Performing a VARIETY of duties

Climbing: Not Present - Activity or condition does not exist

Balancing: Not Present - Activity or condition does not exist

Stooping: Occasionally - Exists up to 1/3 of the time

Kneeling: Not Present - Activity or condition does not exist

Crouching: Not Present - Activity or condition does not exist

Crawling: Not Present - Activity or condition does not exist

Reaching: Frequently - Exists from 1/3 to 2/3 of the time

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Handling: Frequently - Exists from 1/3 to 2/3 of the time

Fingering: Frequently - Exists from 1/3 to 2/3 of the time

Feeling: Not Present - Activity or condition does not exist

Talking: Occasionally - Exists up to 1/3 of the time

Hearing: Occasionally - Exists up to 1/3 of the time

Tasting/Smelling: Not Present - Activity or condition does not exist

Near Acuity: Frequently - Exists from 1/3 to 2/3 of the time

Far Acuity: Not Present - Activity or condition does not exist

Depth Perception: Not Present - Activity or condition does not exist

Accommodation: Not Present - Activity or condition does not exist

Color Vision: Not Present - Activity or condition does not exist

Field of Vision: Not Present - Activity or condition does not exist

Exposure to Weather: Not Present - Activity or condition does not exist

Extreme Cold: Not Present - Activity or condition does not exist

Extreme Heat: Not Present - Activity or condition does not exist

Wet and/or Humid: Not Present - Activity or condition does not exist

Noise Level: Level 3 - Moderate

Vibration: Not Present - Activity or condition does not exist

Atmospheric Cond.: Not Present - Activity or condition does not exist

Moving Mech. Parts: Not Present - Activity or condition does not exist

Electric Shock: Not Present - Activity or condition does not exist

High Exposed Places: Not Present - Activity or condition does not exist

Radiation: Not Present - Activity or condition does not exist

Explosives: Not Present - Activity or condition does not exist

Toxic Caustic Chem.: Not Present - Activity or condition does not exist

Other Env. Cond.: Not Present - Activity or condition does not exist

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DICOT 295.367-026

DICTIONARY OF OCCUPATIONAL TITLES
Fourth Edition, Revised 1991

Occupational Group Arrangement

2 Clerical and Sales Occupations
29 Miscellaneous Sales Occupations

295 Rental Clerks

295

367

026

STORAGE-FACILITY RENTAL CLERK

Industry Designation: Business Services; Retail Trade Industry

Leases storage space to customers of rental storage facility: Informs customers of space availability, rental regulations, and rates. Assists customers in selection of storage unit size according to articles or material to be stored. Records terms of rental on rental agreement form and assists customer in completing form. Photographs completed form and customer to establish identification record, using security camera. Computes rental fee and collects payment. Maintains rental status record and waiting list for storage units. Notifies customers when rental term is about to expire or rent is overdue. Inspects storage area periodically to ensure storage units are locked. Observes individuals entering storage area to prevent access to or tampering with storage units by unauthorized persons. Loads film into security and surveillance cameras, records dates of film changes, and monitors camera operations to ensure performance as required. Cleans facility and maintains premises in orderly condition.

GUIDE FOR OCCUPATIONAL EXPLORATION: 09.04.02

STRENGTH: Light Work - Exerting up to 20 pounds of force occasionally (Occasionally: activity or condition exists up to 1/3 of the time) and/or up to 10 pounds of force frequently (Frequently: activity or condition exists from 1/3 to 2/3 of the time) and/or a negligible amount of force constantly (Constantly: activity or condition exists 2/3 or more of the time) to move objects. Physical demand requirements are in excess of those for Sedentary Work. Even though the weight lifted may be only a negligible amount, a job should be rated Light Work: (1) when it requires walking or standing to a significant degree; or (2) when it requires sitting most of the time but entails pushing and/or pulling of arm or leg controls; and/or (3) when the job requires working at a production rate pace entailing the constant pushing and/or pulling of materials even though the weight of those materials is negligible.

Reasoning: Level 3 - Apply commonsense understanding to carry out instructions furnished in written, oral, or

diagrammatic form. Deal with problems involving several concrete variables in or from standardized situations.

Math: Level 3 - Compute discount, interest, profit, and loss; commission, markup, and selling price; ratio and proportion; and percentage. Calculate surfaces, volumes, weights, and measures.

ALGEBRA: Calculate variables and formulas; monomials and polynomials; ratio and proportion variables; and square roots and radicals.

GEOMETRY: Calculate plane and solid figures, circumference, area, and volume. Understand kinds of angles and properties of pairs of angles.

Language: Level 3 - READING: Read a variety of novels, magazines, atlases, and encyclopedias. Read safety rules, instructions in the use and maintenance of shop tools and equipment, and methods and procedures in mechanical drawing and layout work.

WRITING: Write reports and essays with proper format, punctuation, spelling, and grammar, using all parts of speech.

SPEAKING: Speak before an audience with poise, voice control, and confidence, using correct English and a well-modulated voice.

SPECIFIC VOCATIONAL PREPARATION: Level 2 - Anything beyond short demonstration up to and including 1 month

Data: 3 - Compiling

S - Significant

People: 6 - Speaking-Signalling

S - Significant

Things: 7 - Handling

S - Significant

Field 1: 292 - Merchandising-Sales

Field 1: 889 - Merchandising Services, n.e.c. (commercial decorating, window trimming, professional shopping, etc.)

General Learning Ability: Level 3 - Middle 1/3 of the Population

Medium Degree of Aptitude Ability

Verbal Aptitude: Level 3 - Middle 1/3 of the Population

Medium Degree of Aptitude Ability

Numerical Aptitude: Level 3 - Middle 1/3 of the Population

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Medium Degree of Aptitude Ability

Spacial Aptitude: Level 4 - Lowest 1/3 Excluding Bottom 10%

Low Degree of Aptitude Ability

Form Perception: Level 4 - Lowest 1/3 Excluding Bottom 10%

Low Degree of Aptitude Ability

Clerical Perception: Level 3 - Middle 1/3 of the Population

Medium Degree of Aptitude Ability

Motor Coordination: Level 4 - Lowest 1/3 Excluding Bottom 10%

Low Degree of Aptitude Ability

Finger Dexterity: Level 4 - Lowest 1/3 Excluding Bottom 10%

Low Degree of Aptitude Ability

Manual Dexterity: Level 3 - Middle 1/3 of the Population

Medium Degree of Aptitude Ability

Eye-Hand-Foot Coordination: Level 5 - Bottom 10% of the Population

Markedly Low Aptitude Ability

Color Discrimination: Level 5 - Bottom 10% of the Population

Markedly Low Aptitude Ability

P: Dealing with PEOPLE

V: Performing a VARIETY of duties

Climbing: Not Present - Activity or condition does not exist

Balancing: Not Present - Activity or condition does not exist

Stooping: Occasionally - Exists up to 1/3 of the time

Kneeling: Occasionally - Exists up to 1/3 of the time

Crouching: Not Present - Activity or condition does not exist

Crawling: Not Present - Activity or condition does not exist

Reaching: Frequently - Exists from 1/3 to 2/3 of the time

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Handling: Frequently - Exists from 1/3 to 2/3 of the time

Fingering: Not Present - Activity or condition does not exist

Feeling: Not Present - Activity or condition does not exist

Talking: Frequently - Exists from 1/3 to 2/3 of the time

Hearing: Frequently - Exists from 1/3 to 2/3 of the time

Tasting/Smelling: Not Present - Activity or condition does not exist

Near Acuity: Not Present - Activity or condition does not exist

Far Acuity: Frequently - Exists from 1/3 to 2/3 of the time

Depth Perception: Not Present - Activity or condition does not exist

Accommodation: Not Present - Activity or condition does not exist

Color Vision: Not Present - Activity or condition does not exist

Field of Vision: Not Present - Activity or condition does not exist

Exposure to Weather: Occasionally - Exists up to 1/3 of the time

Extreme Cold: Not Present - Activity or condition does not exist

Extreme Heat: Not Present - Activity or condition does not exist

Wet and/or Humid: Not Present - Activity or condition does not exist

Noise Level: Level 3 - Moderate

Vibration: Not Present - Activity or condition does not exist

Atmospheric Cond.: Not Present - Activity or condition does not exist

Moving Mech. Parts: Not Present - Activity or condition does not exist

Electric Shock: Not Present - Activity or condition does not exist

High Exposed Places: Not Present - Activity or condition does not exist

Radiation: Not Present - Activity or condition does not exist

Explosives: Not Present - Activity or condition does not exist

Toxic Caustic Chem.: Not Present - Activity or condition does not exist

Other Env. Cond.: Not Present - Activity or condition does not exist

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