

CASE NO. 15-_____

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

JUTTA SPIES,

Plaintiff,

vs.

Case No.: 14-cv-568

CAROLYN W. COLVIN,
Acting Commissioner of Social Security,

Defendant.

Appeal from a Judgment from
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

DOCKETING STATEMENT

Dana W. Duncan
Attorney for the Plaintiff-Appellant
Duncan Disability Law, S.C.
State Bar I.D. No. 01008917
3930 8th Street South, Suite 201
Wisconsin Rapids, WI 54494
(715) 423-4000

Plaintiff-Appellant, Jutta Spies, by her attorney, Dana W. Duncan, **Duncan Disability Law, S.C.**, submits this docketing statement alleging the following:

1. The District Court's jurisdiction is contained in an appeal of an adverse decision of the Commissioner of Social Security under §216(i) and 223 of the Social Security Act, 42 U.S.C. §416(i) and 423(d).
2. The judgment to be reviewed is an order and judgment by the Honorable, James D. Peterson, District Judge, dated May 27, 2015 and entered on the same date, affirming the decision of the Defendant-Appellant, Carolyn W. Colvin, Acting Commissioner of Social Security, denying the plaintiff-appellant's application for a period of disability and disability insurance benefits under 42 U.S.C. §§216(i) and 223. Dkt. 23, 24.
3. This docketing statement is submitted pursuant to Circuit Rule 3(c) and Circuit Rule 28(a).
4. A Notice of Appeal was filed on or about the 24th day of July, 2015.
5. The Notice of Appeal from the order of the Honorable James D. Peterson, is an appeal from a final judgment adjudicating all of the claims with respect to all parties.
6. As procedural history:
 - A. On April 13, 2012, the claimant filed a Title II application for a period of disability and disability insurance benefits, and a Title XVI, application for Supplemental Security Income, alleging disability beginning October 8, 2008. The claim was denied initially and upon reconsideration
 - B. On January 22, 2014, ALJ Joseph D. Jacobson issued a nine-page decision. He found that Spies met the insured status requirements of the Social Security Act through December 31, 2013, had not engaged in substantial gainful activity since October 8, 2008, the alleged onset date, and had the following severe

impairments: peripheral neuropathy, obesity, osteoarthritis of the back and knees, and cervical disc disease.

- C. In determining the residual functional capacity, the ALJ found that Spies could perform:

Light work as defined in 20 CFR 404.1567(b) and 416.967(b) except she needs to be able to alternate between seated and standing positions at will (providing that she would not be off task over 10% of the work period); she cannot climb ladders, ropes or scaffolds and can only occasionally stoop, crouch, kneel, crawl, or climb ramps and stairs; she needs to avoid exposure to large moving machinery and unprotected heights; she needs to elevate her feet 12 to fifteen inches off the floor while seated; and would need to be off task up to 10% of the work period in addition to regularly scheduled breaks.

- D. The ALJ first found that Spies was “capable of performing past relevant work as a camera operator.” The ALJ also made alternative findings at step five.
- E. The ALJ also found that “Although the claimant is capable of performing past relevant work, there are other jobs existing in the national economy that she is also able to perform. Therefore, I make the following alternative findings for step five of the sequential evaluation process.”
- F. The ALJ found that the claimant was born on November 9, 1964 and was 43 years old, which is defined as a younger individual age 18-49, on the alleged disability onset date, had at least a high school education, and was able to communicate in English.
- G. The ALJ also found, “In the alternative, considering the claimant's age, education, work experience, and

residual functional capacity, there are other jobs that exist in significant numbers in the national economy that the claimant also can perform.”

H. The ALJ also noted:

However, the claimant's ability to perform all or substantially all of the requirements of this level of work has been impeded by additional limitations. To determine the extent to which these limitations erode the unskilled light occupational base, I asked the vocational expert whether jobs exist in the Wisconsin economy for an individual with the claimant's age, education, work experience, and residual functional capacity. The vocational expert testified that given all of these factors the individual would be able to perform the requirements of representative occupations such as 1,500 inspecting/sorting jobs; 18,000 cashier jobs; and 2,000 stock clerk positions.

- I. Accordingly, the ALJ found that Spies had not been under a disability, as defined in the Social Security Act, from October 8, 2008, through the date of this decision. R28.
- J. Following a timely request for Review of Administrative Decision, the Appeals Council denied review on June 17, 2014, making the ALJ's decision the final decision of the Commissioner.
- K. Following the submission of briefs, the Honorable James D. Peterson, United States District Judge, issued an Opinion and Order on May 27, 2015 and docketed on said date which recommended that the Commissioner's final decision in this matter be affirmed. A judgment was docketed on May 27, 2015, affirming the Commissioner's Decision.

Dated this 24th day of July, 2015.

Respectfully submitted,

Duncan Disability Law, S.C.
Attorneys for the Plaintiff-Appellant

/s/ Dana W. Duncan

Dana W. Duncan
State Bar I.D. No. 01008917
3930 8th Street South, Suite 201
Wisconsin Rapids, WI 54494
(715) 423-4000