

CASE NO. 17-_____

**UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT**

TIMOTHY LAYNE BUBB,

Plaintiff-Appellant,

v.

Case No. 16-CV-270-slc

**NANCY A. BERRYHILL,
Acting Commissioner of Social Security,**

**Hon. Stephen L. Crocker
United State District Judge**

Defendant-Appellee

**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
555 Birch St.
P.O. Box 217
Nekoosa, WI 54494
(715) 423-4000

Plaintiff-Appellant, Timothy Layne Bubb, by his 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, Stephen L. Crocker, Magistrate Judge, dated December 28, 2016 and entered on December 28, 2016, affirming the decision of the Defendant-Appellant, Nancy A. Berryhill, 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. 14, 15.
3. This docketing statement is submitted pursuant to Circuit Rule 3(c) and Circuit Rule 28(a).
4. A Notice of Appeal will be filed on or about the 24th day of February, 2017.
5. The Notice of Appeal from the order of the Honorable Stephen L. Crocker, which is an appeal from a final judgment adjudicating all of the claims with respect to all parties.
6. As procedural history:
 - A. Pursuant to 42 U.S.C. §405(g), Plaintiff, Timothy Layne Bubb, sought judicial review of the final administrative decision of the Commissioner of Social Security (SSA or Commissioner). The matter was filed on April 22, 2016, and submitted on briefs August 8, 2016, September 19, 2016, and October 5, 2016. Dkt. 11, 12, and 13.
 - B. The matter was based upon an application for Child's Insurance Benefits filed on October 9, 2012. R299-311.

- C. The application was denied on October 4, 2012 and the reconsideration denied on April 4, 2011. R158-169, 170-183.
- D. On November 6, 2014, ALJ William G. Brown issued a twelve-page decision denying Bubb's application for Disabled Child's Insurance Benefits and Supplemental Security Income.
- E. The ALJ found that Bubb was born on February 15, 1994; had not attained age 22 as of January 1, 2010, the alleged onset date; and had not engaged in substantial gainful activity since January 1, 2010, the alleged onset date. R43.
- F. Bubb had the following severe impairments: asthma; left knee pain; depression, nos; social anxiety disorder; a history of oppositional defiant disorder; and personality traits. R43.
- G. At Step Three, the ALJ found that Bubb did not have an impairment or combination of impairments that met or medically equaled the severity of one of the listed impairments in 20 CFR Part 404, Subpart P, Appendix 1. R44.
- F. The ALJ found that Bubb had the residual functional capacity to perform medium work. R45. The ALJ also found that Bubb was:

precluded from climbing ladders, ropes or scaffolds, from working at heights or around hazards or hazardous machinery, and should avoid concentrated exposure to gases, fumes, odors, dusts, pollutants, air contaminants and poor ventilation. The claimant (was) further limited to routine, repetitive instructions and tasks in unskilled work with brief, superficial and infrequent contact with co-workers, no contact with the public, and is able to tolerate ordinary supervision. The

claimant (was) able to handle the routine stress of a routine, repetitive work setting with no rapid pace or high production goals. Work (was) limited to no more than minimal math and the claimant is limited to working with no more than 2 to 3 others at a time.

R45.

- G. At Steps Four and Five, the ALJ found that Bubb was unable to perform past relevant work. R50.
- H. The ALJ also found that Bubb was born on February 15, 1994 and was 15 years old which is defined as a younger individual age 18-49 on the alleged disability onset date. R50.
- I. The ALJ also found that Bubb had a marginal education and was able to communicate in English. R50.
- J. Transferability of job skills was not an issue because Bubb did not have past relevant work.
- K. ALJ Brown found "Considering the claimant's age, education, work experience, and residual functional capacity, there are jobs that exist in significant numbers in the national economy that the claimant can perform. . . . R51.
- L. ALJ Brown found that Bubb had not been under a disability, as defined in the Social Security Act, since January 1, 2010, the alleged onset date. R51.
- M. On February 22, 2016 the Appeals Council denied review, thus making the ALJ's decision the final decision of the Commissioner. R1-4.
- N. Bubb filed a complaint on April 22, 2016 seeking judicial review of the final decision of the Commissioner.

Dated this 24th day of February, 2017.

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
555 Birch St.
P.O. Box 217
Nekoosa, WI 54494
(715) 423-4000