

LEGAL UPDATE

A publication provided for the friends and clients of QRG

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HURDLES IN THE SOCIAL SECURITY DISABILITY PATH

By A. Teresa Rerko, Esq.

Often at the recommendation of someone you trust, you begin the process of applying for SSD or SSI disability benefits. Regardless of the strength of your case, be forewarned: there will be obstacles to navigate before you collect any benefits. QRG's experienced legal staff can guide you through the following difficulties:

It takes too long. Once you apply for benefits, the decision on your initial application can take 4 to 6 months. If your application is not approved (and most are not), it can then take 1 to 2 years to get a hearing before an Administrative Law Judge.

It can be unresponsive. Due to the heavy volume of claims, it can be difficult to reach Social Security Administration (SSA) personnel by telephone with questions about the status of your claim.

It doesn't always consider factors that may be important to you. At the initial level, the SSA does not consider your pain and fatigue, but simply checks whether the severity of your condition(s) "matches" the criteria required for a finding of disability.

You will be asked the same questions repeatedly. There are certain things the SSA needs to know in order to evaluate your claim. Unfortunately, the same information may be requested in different formats. It will seem as if you're answering the same questions repeatedly.

It is impersonal. Unless you have a hearing before an Administrative Law Judge, the person deciding your case will never see you. Decisions are made based on the information provided in the paperwork.

People may tell you what you want to hear. For example, the doctor examining you at the request of SSA may tell you that you will be approved for benefits even though that person has no control over that decision.

Your "day in court" is really an hour. If your claim goes to a hearing, an hour is probably all of the time necessary for the Administrative Law Judge to decide disability in your case, if all of the medical evidence has been previously provided. You won't be able to discuss your full medical history or other issues that concern you; the Judge is strictly concerned with how your present condition affects you and your ability to function in a work situation.

Medical examinations may not be what you expect. An examination by a doctor hired by SSA is limited in scope and is not as thorough as you would like.

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The LEGAL UPDATE is prepared by the staff of QRG for its friends and clients. The UPDATE sets forth general principles and should not be acted upon without specific advice.

TO SHRED – OR NOT TO SHRED?

Even though many Americans are moving to electronic billing and payments and other paper-free efforts, it is still easy to accumulate mountains of paper in order to be prepared for insurance claims, taxes or other issues. How much is really necessary? How long is long enough?

The following chart published by The Credit Union National Association (CUNA) is one guide to help you cut through the clutter. Remember to always store any permanent records and papers in a safe container, preferably a fireproof storage box, and be sure it is accessible should you need to retrieve it quickly.

What to Keep and for How Long					
	45 Days	One Year	Six Years	Seven Years	Permanently
Credit card receipts and statements	██████████	=====	=====	=====	=====
Keep receipts until your monthly statement arrives; if that's correct, shred the receipts. Exceptions: Keep a receipt if you're disputing a bill or to cover a warranty or return period. Keep the statements for seven years if they contain tax-related expenses.					
Pay check stubs	██████████	=====	=====	=====	=====
Make sure the information on your paycheck stubs matches your annual W-2 when you receive it, then shred the stubs. If your employer lists vacation/sick leave carryover on your paycheck stub, keep the last one of the year. Notify your employer if the information doesn't match.					
Retirement/savings plan statements	██████████	=====	=====	=====	=====
Keep quarterly statements until you receive your annual summary; if everything is correct on the annual summary, shred the quarterlies. It's best to hold on to annual statements until you retire or close the account. Keep important notices and contacts for retirement plans and pensions permanently.					
Credit union records	██████████	=====	=====	=====	=====
At the end of each year, go through your share draft carbons or statements and only keep those related to taxes, business expenses, and housing or mortgage payments.					
Bills	██████████	=====	=====	=====	=====
Keep bills for major purchases—cars, jewelry, furniture, computers, and so on—to show proof of their value in the event of loss or damage. For other bills, once you know payment has cleared your credit union for a particular bill and the return/refund period has expired, shred that bill.					
House records	██████████	=====	=====	=====	=====
Keep purchase price information and the cost of permanent improvements to your property, such as remodeling. Also, if you buy or sell property, keep records of legal fees and your real estate agent's commission for six years after you sell your house. Keeping these records, especially home improvement records, is a good idea and could potentially assist you in lower capital gains tax should you decide to sell.					
Tax records	██████████	=====	=====	=====	=====
The IRS has three years to audit your return, and you have three years to file an amended return to claim a refund if you made a mistake. If you made the mistake of underreporting your gross income by 25% or more on a return, the IRS has six years to challenge it. If you filed a fraudulent return or didn't file one at all, the IRS can catch you on it at any time. Keep a copy of all 1040 tax forms permanently.					
IRA contributions	██████████	=====	=====	=====	=====
Keep nondeductible contribution records permanently in case you need to prove you paid tax on the money when you want to withdraw it.					
Miscellaneous	██████████	=====	=====	=====	=====
Also keep these permanently: Updated household inventory, birth and death certificates, marriage license, divorce papers, military records, insurance claims, accident reports and claims, proof of ownership and major debt repayment, and legal correspondence.					
<div> <div>██████████ Recommended time to keep documents</div> <div>===== Some cases call for longer retention</div> </div>					

YOUR ANNUAL SOCIAL SECURITY STATEMENT

By Brian Patrick Bronson, Esquire

If you have a work history and have paid taxes on your income, the Social Security Administration (SSA) keeps track of your earnings. Every year you will receive a statement from SSA which provides several types of information to you.

First, the statement will provide an estimate of the various types of benefits to be paid by SSA. Included will be estimates of benefits for early (age 62) and full (age 65 or older, depending upon your date of birth) retirement. (*Note: if you want to determine your full retirement age, check the SSA website at www.ssa.gov.)*

The statement will also provide an estimate of the benefit you would receive if you become eligible for Social Security Disability.

Finally, the statement lists your earnings as recorded by SSA. It is always a good idea to check these figures, as SSA may not have recorded the correct information. If these amounts are incorrect, you should immediately contact SSA and have them corrected. You must have proper documentation, such as W-2 statements or pay stubs, to verify your income. SSA will not correct your statement based simply upon your word; you must have proof.

While the above-mentioned benefit amounts are only estimates, they will give you a good idea of your potential benefits. Your exact benefit amount will be calculated once you actually qualify for and begin to receive that particular benefit.



CAN I WORK AND STILL RECEIVE SSD OR SSI?

By Kellie J. Taylor, Paralegal

Social Security Disability benefits help those who, by illness or injury, are not able to support themselves. Sometimes, those receiving these benefits would like to do part-time or occasional work to supplement their disability payments. Clients will often ask "How much money can I make and still collect my Social Security Disability benefits?" This is not an easy question to answer.

Any work a person does while collecting Social Security Disability benefits necessarily raises issues because it is at odds with the finding of disability. The SSA allows you to earn up to a set amount per month without jeopardizing your benefits. This amount changes yearly; for 2007, the figure was \$640 per month. Any earnings above that begins a "trial work period." The SSA will monitor your earnings for approximately 9 months, not necessarily consecutive months, during the trial work period. (If you are self employed, in addition to monitoring your monthly earnings, you must also monitor the hours you work each month.) Your trial work period is not over until 9 months of work at the noted income levels are completed within a period of 60 consecutive months. This work activity can cause the SSA to begin a medical review of your disability to determine if you still qualify for benefits. It can also create a substantial overpayment of benefits to you.

If your benefits are stopped because you have exhausted your trial work period, you can be eligible to have your benefits reinstated if you stop work because of your health within 36 months after the trial work period is terminated, which is referred to as your extended period of eligibility.

Though you can work if you are collecting Social Security Disability benefits, you must keep in mind your benefits are subject to strict guidelines. You must always notify the SSA when you begin a new job so your activity and earnings can be monitored. You should always keep copies of any documents you send to the SSA and record the names of persons with whom you speak.

Getting back to work may be possible. A trial work period affords you the opportunity to find out.



WHAT'S THE VERDICT?

By Richard H. Galloway, Esq.

Billy Miles and Bobby Carver were both 20 years old; Billy would turn 21 in just two months, while Bobby still had the better part of a year to go before he reached that milestone. They were pretty good kids, both students at Penn State, who had been friends since first grade. They had played football for the local high school on a championship team, and were well regarded in town.

Billy had had a few minor scrapes with the law. He had a reckless driving charge that grew out of a drag race he and his friend had on a back road. He also had an underage drinking charge at age 15 when he and three of his friends got caught with a quart of beer in the alley behind the Exxon station. His friend Bobby's record was clear except for a stop sign violation when the local policeman didn't understand Bobby's explanation of a "rolling stop".

Both of these young men were looking forward to graduation in a year and both were employed at a local company for the summer, delivering auto parts to various repair garages. The pay was fair and they had been doing it for three years now and knew the customers and the job pretty well.

On Friday night, they played a regularly scheduled Merchants League softball game for LaBarre Stationery. Bobby had a better night than Billy, with two doubles and a single but Billy had had a double as well, so all in all, it was a good night. Afterwards, two of their buddies got a case of beer and they went up to the old abandoned campgrounds and four of them sat around, swapped tales and just kicked back. About 11 o'clock, Billy decided that he wanted to go see his girlfriend, Sandy, and he left the party. Although he had three beers, he thought he was well in control. He took along two unopened beers, one for him and one for Sandy.

Bobby and the other two friends were just getting ready to leave the campgrounds when Patrolman Lester Gickin, the hardest-nosed local policeman that anybody knew, came upon the scene, snuck up on the boys and caught them before any of them could run away. He arrested them all for underage drinking.

In the meantime, Billy had wound his way down Buttermilk Hollow Road and stopped at a stop sign (he was driving carefully because he had three beers) when he was rear ended by Mabel Smith, an 87-year-old widow who lived on the Smith farm on Buttermilk Hollow Road. There wasn't a whole lot of damage, but Mabel, ever cautious, insisted on calling the police. Soon the patrol car arrived with three young men secured in the back. It was Officer Gickin. While investigating the accident, he discovered that Billy had the smell of alcohol on his breath and two beers in the car.

Billy knows that he may be charged with underage drinking, but he was sure that his blood alcohol would be below the .08 % limit that Pennsylvania sets for DUI offenses. He's taken to the local hospital, blood is drawn and he's right; his blood alcohol level is .04%. What kind of trouble are these boys in?

Answer on Page 6



WANT TO GO GREEN?

Recycling has long been proven to save tremendous resources. For example, recycling one ton of paper saves 6,953 gallons of water, 463 gallons of oil, 3 cubic yards of landfill space, and 587 pounds of air pollution.

Westmoreland Cleanways, the County's recycling coordinators, sponsors various programs to help residents dispose of items in an environmentally responsible way. An annual collection held at Westmoreland Fairgrounds is an excellent opportunity to safely dispose of such hazardous household items such as oil and lead based paints, solvents and thinners, automotive fluids, insecticides and pesticides, and anything labeled toxic or dangerous. This year's collection will take place on Saturday, October 11, 2008 from 9 a.m. to 2 p.m.

More recycling features are coming in the next issue of LEGAL UPDATE. In the meantime, contact Westmoreland Cleanways at 724-836-4129 or e-mail info@westmorelandcleanways.org to see what other ways you can go **green**.

QRG COMMUNITY PARTNERS

There are many organizations in our community that provide important services but their work is not always well-publicized. This month we spotlight the Greater Latrobe School District (GLSD) Art Conservation Trust. Many Latrobe High School graduates have fond memories of the art collection they viewed daily. The following article by Jessica Golden, Director of the Center for Student Creativity at the school, provides an overview of this impressive collection and what is being done to maintain and expand it.

A UNIQUE VISION OF ART

By Jessica Golden



Blossom Time by Martha Morgan was one of the first two paintings purchased in 1936.

The art collection of the Greater Latrobe School District is one of the unusual treasures of Western Pennsylvania. It began more than 70 years ago through the efforts of two visionary educators: art teacher Mary Martha Himler and social studies teacher James R. Beatty. From the initial two paintings purchased in 1936, the collection has grown to nearly 200 pieces of art that line the corridors of the high school and are accessible for viewing to every student every day.

This is truly a unique project, for the works are chosen each year by vote of the entire student body of the high school. In addition, most of the works are purchased with funds raised by the Student Council. This creates a sense of ownership that never ends, as demonstrated by the number of class reunion participants who ask for art tours.

The school board created the GLSD Art Conservation Trust in 1991 to oversee the collection and raise funds for its care. The group is composed of school and community members in a partnership that has accomplished far more than its original mandate. The Trust has raised funds for projects such as catalogs of the collection and the building of the Center for Student Creativity at the senior high school. The Trust holds a fundraiser Art Gala each year at the high school while the works under consideration are on exhibit. In 2008, the Gala will take place on November 6.



In 2004, students selected this delightful portrait of Mister Rogers painted by Kathy Rafferty (wife of Attorney Dennis Rafferty of QRG).



The updated edition of *A Unique Vision of Art* was unveiled on June 11th at Greater Latrobe Senior High School. Pictured from left are Dr. Georgia R. Teppert, Senior High Principal, Barbara H. Nakles, author and Chair of the Art Conservation Trust, and Dr. William D. Stavisky, recently retired Superintendent of Greater Latrobe Schools.

Recently, the Trust published an updated edition of *A Unique Vision of Art* by Barbara H. Nakles. This book, which includes color reproduction of 195 art works along with information about each, is priced at \$30. All proceeds of sales of the book will be used to conserve the collection and make certain that the vision continues. The book can be purchased at the following Latrobe locations: the GLSD Administration Office (410 Main Street), The Latrobe Art Center, Rose Style Shoppe and the Center for Student Creativity at the high school. It can also be shipped for an additional \$5 cost.

For information about the catalog, the Gala, or other Art Conservation Trust projects, please contact Jessica Golden, Center for Student Creativity Director, at 724-539-4220, or by e-mail at jgolden@wiu.k12.pa.us.



Penny Candy by Richard Newill was added to the art collection in 2007 and is the last work featured in the art catalog.



WHAT'S THE VERDICT?

Continued from page 4

ANSWER: Billy and Bobby figure they'll just pay fines for underage drinking and that should be the end of it.

Billy is shocked to learn he is charged with both DUI and Possession, Consumption or Transportation of Alcohol by a Minor (underage drinking). Bobby is charged only with underage drinking.

Under Pennsylvania's DUI law, a special section for drivers under 21 (the legal drinking age) lowers the blood alcohol content limit to .02%. Since this is Billy's first DUI, he is apt to get Accelerated Rehabilitative Disposition (ARD). In ARD, he will be placed on probation with a requirement that he attend alcohol highway safety school, receive drug and alcohol counseling, and pay the court costs. If Billy successfully completes the ARD program, his record can be wiped clean (expunged). If instead he goes to trial, he risks a permanent criminal record.

What about the underage drinking charge? Billy drank three beers and also transported two beers in his car. Billy had one previous underage drinking offense. The underage drinking law was designed to impact kids directly by suspending their license rather than just fining them. Since this is Billy's second offense, he will lose his license for a full year.

Although Bobby was not driving when he was arrested, he was underage and in possession of the case of beer, some of which he had consumed. A minor cannot possess or transport alcohol, even if he doesn't drink it. Bobby is guilty of possession of the case of beer as well as consumption. Since this is Bobby's first offense, he will have to pay a fine and he will lose his license for sixty days.

Since Billy and Bobby's summer jobs require them to drive, these offenses are going to cost them their jobs.

Moral of the story: Alcohol is at the center of many problems, and getting an early start is probably not in your best interest.

Second moral of the story: The law says you have to be 21; almost 21 doesn't count.

Alternative moral of the story: No one escapes when Officer Lester Gickin is on duty.

QRG LEGAL NEWS

Recently, Attorney **Tereasa Rerko** was successful in obtaining a Remand of a Social Security Disability case that was appealed to Federal District Court in Pittsburgh. The Court found that the Administrative Law Judge who decided the case did not use the correct standard when evaluating what side effects were caused by the Claimant's pain medication, and how those side effects impacted the Claimant's ability to work on a full-time basis. The case will now go back for another hearing before an Administrative Law Judge. The case, *Lickenfelt v. Astrue*, 2008 WL 2275538 (*Western District of Pa.*), has been published in the Federal Court Reporter, and in the future will affect other cases with the same issues.

QRG IN THE COMMUNITY

Attorney **David DeRose** recently addressed a leadership breakfast sponsored by the American Heart Association in conjunction with the promotion of its annual Heart Walk. David, a heart attack survivor, concentrated his remarks on wellness and heart attack prevention issues. The Heart Walk is open to the general public; this year's event will take place on Saturday, September 27, 2008 at the Kennametal office campus in Latrobe.

The Pennsylvania Lawyer magazine recently published an article focusing on community volunteer work performed by attorneys throughout Pennsylvania. QRG attorney **Vince Quatrini** was one of the individuals featured in the article. Vince discussed his involvement in the formation and operation of the Community Foundation of Westmoreland County, explaining that CFWC provides grant money to a wide variety of charitable organizations and encourages individuals to become philanthropists. The full article may be found on our website at www.qrglaw.com.

Attorney **Dick Galloway** has been elected vice-president of the Board of Directors of the Pennsylvania Bar Institute (PBI). PBI establishes and administers statewide continuing legal education courses for licensed attorneys.

Attorney **David DeRose** was recently elected to a 5-year term on the Latrobe Area Hospital Charitable Foundation Board of Directors. The mission of the foundation is to help ensure the highest quality health care for the Greater Latrobe area community.

QRG PERSONAL NOTES

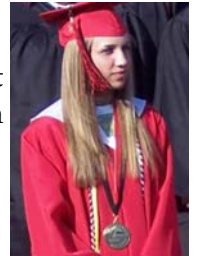
Attorney **Tereasa Rerko**'s son, Patrick, is a WEBLO Boy Scout. Her daughter, Shelby, was again named to the honor roll at St. John the Baptist Catholic School.



Keri Zaucha, daughter of legal secretary **Cindy Cronin**, married Drew Bentley at Mother of Sorrows Church in Murrysville on April 26, 2008. After a honeymoon in the Bahamas, the newlyweds are residing in Plum Boro.

Nathaniel DeRose, son of attorney **David DeRose**, graduated from the University of Pittsburgh with both an MBA and a law degree and successfully passed the Pennsylvania Bar Exam in February 2008. He is presently employed as an associate attorney at Hogan & Hartson in Washington, DC.

Kelsey Sherbondy, daughter of paralegal **Brenda Sherbondy**, was a valedictorian and spoke at the Ligonier Valley High School graduation ceremony. She will attend American University in Washington, DC, enrolled in the Honors Program of its School of Public Affairs.



Paralegal **P.J. Pritts** has volunteered since 1995 with the Greater Scottdale Girls Softball League. This year, she coached her daughter, Lindsey, and the team to a first place standing in the 9-11 year-old age group. (*P.J. is 2nd from left in back row; Lindsey is 2nd from right, front row.*)

Connellsville High School Colorguard, coached by client care representative **Terri Ross**, won 1st place in their local Tournament of Bands Championship and went on to place in the top ten at the National Championships in Wildwood, NJ. Terri also assists the Connellsville High School Percussion, which won 3rd place in the local championship and also placed in the top ten at the national level.

In the recent "Best of the West" tournament in Rochester, Pennsylvania, Cassidy Chappell's softball team, Evolution, went on to win 5 straight games after losing the first game and placed second overall. Cassidy is the daughter of paralegal **Rhonda Chappell**.

SOCIAL SECURITY DISABILITY - DID YOU KNOW?

By Margo A. Russell, Paralegal

- that creditors, such as credit card, mortgage or auto loan companies, cannot attach your Social Security Disability (SSD) or Supplemental Security Income (SSI) benefits? If a creditor tries to do so, it is a violation of the Social Security laws, and you should take action immediately. The exception is the federal government, which can attach Social Security benefits to enforce child support and alimony obligations or to satisfy unpaid federal taxes.
- that unemployment compensation benefits are not counted under the Social Security annual earnings test and do not affect your receipt of Social Security benefits?
- that if a person is convicted of a crime and spends more than 30 continuous days in jail, SSD and SSI benefits are withheld?
- that a child of low birth weight may qualify for SSI benefits? A child who weighs less than 2,000 grams (about 4 lbs., 6 oz.) at birth may qualify for SSI on the basis of low birth weight. Other criteria may also apply.

MEET THE STAFF

JODI L. BUSKO AND CYNTHIA D. CRONIN

Jodi Busko (*left*) has been Attorney Dennis Rafferty's legal secretary since 1984. Her duties at QRG include assisting in criminal, real estate, estate administration, personal injury, and school law matters. She resides in Unity Township with her husband, Ted, her son, Stephen, and their two cats, Chester and Piggy. Stephen will be a junior in high school this fall and will start his second year on the lacrosse team. Jodi also has two adult stepchildren, Matt, of Somerset, and Briana, of Latrobe. In her spare time, Jodi enjoys exercising, reading, shopping and spending time with her family.

Cindy Cronin (*right*) joined QRG as a legal secretary in the workers' compensation department in February 2005 and works for Attorneys Ron Fonner and Pete Gough. Cindy has two adult children: her son, Chad Zaucha, lives in Brazil, Indiana, and her daughter, Keri Bentley, resides in Plum Boro. She also has one grandson, Reese Zaucha, who is 16 months old, and is happy to welcome a new granddaughter, Breck Anna Zaucha, who just arrived on August 18, 2008! Cindy's interests include traveling, playing tennis in the Scottdale Women's Tennis League, reading, walking outdoors, exercising and watching Pittsburgh Steelers games.



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www.qrglaw.com