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5TH DISTRICT, KENTUCKY

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July 28, 2021

Kilolo Kijakazi  
Acting Commissioner  
Social Security Administration  
6401 Security Boulevard  
Baltimore, Maryland 21235

Dear Acting Commissioner Kijakazi:

I write to bring to your attention an ongoing concern surrounding the Social Security Administration's (SSA) efforts affecting the former clients and victims of disgraced attorney Eric C. Conn. I thank you for your fair and thoughtful consideration of this important matter.

As you may be aware, Conn once led the largest social security law firm in Kentucky and provided legal assistance to clients desperately in need of the disability benefits entitled to them. The unfortunate reality was that he was using his position of trust to carry out a disgraceful social security fraud scheme that still haunts many of his former clients. Conn conspired with doctors, administrative law judges, and others to rig the SSA's disability benefit system and defraud the SSA of more than half a billion dollars. He preyed on disabled residents, manipulated their trust, and turned their plights into his own financial gain.

Following the discovery of Conn's scheme, the SSA suspended disability benefits to thousands of innocent recipients in eastern Kentucky. This region is one of the most distressed in the nation, and a loss of income is incredibly difficult to recover from—especially for the disabled population. As you can imagine, the victims of Conn's scheme were caught off guard once their benefits were suspended. The financial hardship and lack of alternatives has unfortunately resulted in suicides and a true humanitarian crisis.

In 2015, SSA instituted mass redetermination hearings on approximately 1,787 people to determine whether or not these individuals were actually deserving of their much-needed benefits. The judicial system has agreed that there has been a great miscarriage of justice regarding the redetermination process of many of Conn's former clients. In November 2018, the 6<sup>th</sup> Circuit Court of Appeals in *Hicks, et al v. Colvin* ruled in favor of 12 former Conn clients that the mass redetermination hearings used by SSA were unconstitutional. In fact, SSA's process has been held illegal by every U.S. Court of Appeals to consider it – the 4<sup>th</sup>, 6<sup>th</sup>, and 7<sup>th</sup>. Despite the unconstitutionality of these hearings, there are still

hundreds of former clients that are without their benefits simply because they were unable to keep their appeals alive. Moreover, SSA has indicated plans to hear cases of an additional estimated 1,965 individuals in the future. A cadre of pro bono lawyers have valiantly invested their personal time and efforts to ensure justice is done in these cases, but it is increasingly difficult to provide the necessary medical records dating back to the time of their original disability determination.

The SSA has spent millions of taxpayer dollars trying to deny roughly 3,800 disabled Americans their benefits. This is time and money that could be used to reduce the SSA's backlog of cases and route out actual fraud that still permeates the system. I strongly support your efforts to end fraud in the Social Security system, but these individuals are the victims of fraud, not the perpetrators, and it's time for their uncertainty and anxiety to end.

There are several potential solutions that I hope you will consider in the interest of justice. First, SSA should minimize further damage on innocent claimants by creating permanent waivers of overpayments, with no collection on future benefits, and allowing benefits to continue during the redetermination proceedings through all levels of administrative review. Second, SSA should institute fair hearings on determination, when hearings are necessary. The SSA could consider instituting continuing disability reviews (CDR) under 42 U.S.C. 421, rather than "redetermination" proceedings under 42 U.S.C. 406(u). The CDR process is already used regularly by the SSA and would be a vast improvement in the interest of fairness and justice.

I encourage you to carefully consider these options to make right these individuals who have been wronged through absolutely no fault of their own. I look forward to your response and views on these practical solutions and welcome the opportunity to discuss further the matter further.

Sincerely,



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HAL ROGERS  
Member of Congress