

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Diane A. Heskett v. Frank Bisignano, Commissioner of Social
Security

Heskett · No. 1:25-cv-00274-SKO · Decided July 17, 2025

SUMMARY

The court reviewed the Commissioner of Social Security’s denial of Diane A. Heskett’s application for disability insurance benefits. It held that the ALJ failed to adequately develop the record and that the physical residual functional capacity determination was not supported by substantial evidence after the ALJ rejected the medical opinions in the record. The court found the error harmful and ordered remand for further proceedings.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Sheila K. Oberto
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	July 17, 2025
DOCKET	1:25-cv-00274-SKO
DISPOSITION	vacated
PROCEDURAL POSTURE	Judicial review of the Commissioner's final decision denying disability insurance benefits. The court reviewed the administrative record and the parties' briefs without oral argument.
STANDARD OF REVIEW	The court may set aside the Commissioner's decision only if it is based on legal error or is not supported by substantial evidence in the record as a whole. Substantial evidence is more than a mere scintilla and is such relevant evidence as a reasonable mind might accept as adequate. The court must consider the record as a whole and may not substitute its judgment where the evidence is susceptible to more than one rational interpretation. Errors are harmless only when inconsequential to the ultimate nondisability determination.
PRECEDENTIAL VALUE	Unpublished district court order; persuasive value only
PARTIES	Diane A. Heskett v. Frank Bisignano, Commissioner of Social Security

TOPICS

judicial review of agency action

administrative law

agency adjudication

PRACTICE AREAS

Social Security disability benefits

administrative law

judicial review of agency action

residual functional capacity

remand for further administrative proceedings

QUESTIONS PRESENTED

1. Whether the ALJ's physical RFC determination was supported by substantial evidence when the ALJ rejected every medical opinion concerning Plaintiff's functional limitations and independently translated raw medical evidence into work restrictions.
2. Whether the ALJ had a duty to further develop the administrative record because the evidence concerning Plaintiff's functional limitations was ambiguous or inadequate.
3. Whether the ALJ's error was harmful and required remand.
4. Whether the ALJ provided legally sufficient reasons for rejecting Plaintiff's subjective symptom complaints.

HOLDINGS

1. The ALJ's physical RFC determination was not supported by substantial evidence because the ALJ rejected all medical opinions concerning Plaintiff's functional limitations and formulated specific work restrictions from the ALJ's own interpretation of raw medical evidence and testimony.
2. The ALJ had a duty to further develop the record because the treatment and imaging evidence was raw and ambiguous regarding the functional limitations caused by Plaintiff's impairments.
3. The error was harmful because a properly developed record and different RFC limitations could have changed the disability determination and the vocational expert's testimony was based on incomplete hypotheticals.
4. The court declined to reach Plaintiff's alternative challenge to the ALJ's evaluation of her subjective symptom complaints because remand was independently required for further development of the record.

KEY QUOTATIONS

"An ALJ's duty to develop the record further is triggered only when there is ambiguous evidence or when the record is inadequate to allow for proper evaluation of the evidence." (Discussion § IV.A)

"the ALJ was not qualified to the translate evidence into functional limitations and engage in their "own exploration and assessment" of a Plaintiff's impairments." (Discussion § IV.A)

"Based on the foregoing, the Court finds that the ALJ's decision is not supported by substantial evidence and is therefore VACATED, and the case is REMANDED to the ALJ for further proceedings consistent with this Order." (Conclusion and Order)

FACTUAL BACKGROUND

Plaintiff alleged disability beginning July 2, 2022, based on multiple physical and mental impairments, including spinal, shoulder, gastrointestinal, metabolic, and psychological conditions. The ALJ found numerous severe impairments and assessed an RFC for light work with additional physical and mental restrictions, but rejected or found unpersuasive every medical opinion addressing Plaintiff's functional limitations. The ALJ nevertheless concluded at step five that Plaintiff could perform work as a toy stuffer, table worker, or document preparer.

PROCEDURAL HISTORY

Plaintiff applied for disability insurance benefits, and the Commissioner denied the claim initially and on reconsideration. After an ALJ hearing, the ALJ found Plaintiff not disabled at step five of the sequential evaluation because she could perform other work in the national economy. The Appeals Council denied review, making the ALJ's decision final. The district court vacated the Commissioner's decision and remanded for further proceedings.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The Commissioner and ALJ must further develop the record concerning the functional limitations caused by Plaintiff's impairments and reconsider the medical evidence for the relevant period. The matter is remanded for further proceedings; the court did not direct an immediate award of benefits.

CASES CITED

- Tackett v. Apfel, 180 F.3d 1094, 1097-98, 1102-03 (9th Cir. 1999)
- Burch v. Barnhart, 400 F.3d 676, 679 (9th Cir. 2005)
- Swenson v. Sullivan, 876 F.2d 683, 687 (9th Cir. 1989)
- Biestek v. Berryhill, 587 U.S. 97, 103 (2019)
- Consolidated Edison Co. v. NLRB, 305 U.S. 197, 229 (1938)
- Ford v. Saul, 950 F.3d 1141, 1154, 1156 (9th Cir. 2020)
- Valentine v. Commissioner of Social Security Administration, 574 F.3d 685, 690 (9th Cir. 2009)
- Tommasetti v. Astrue, 533 F.3d 1035, 1038 (9th Cir. 2008)
- Edlund v. Massanari, 253 F.3d 1152, 1156 (9th Cir. 2001)
- Sousa v. Callahan, 143 F.3d 1240, 1243 (9th Cir. 1998)
- Penny v. Sullivan, 2 F.3d 953, 956 (9th Cir. 1993)
- Molina v. Astrue, 674 F.3d 1104, 1111, 1115 (9th Cir. 2012)
- Stout v. Commissioner, Social Security Administration, 454 F.3d 1050, 1055-56 (9th Cir. 2006)
- Robbins v. Social Security Administration, 466 F.3d 880, 885 (9th Cir. 2006)
- Shinseki v. Sanders, 556 U.S. 396, 409 (2009)

- Shafer v. Barnhart, 120 F. App'x 688, 698 (9th Cir. 2005)
- Andrews v. Shalala, 53 F.3d 1035, 1039-40 (9th Cir. 1995)
- Petrini v. Berryhill, 705 F. App'x 511, 512 (9th Cir. 2017)
- Rounds v. Commissioner of Social Security, 807 F.3d 996, 1006 (9th Cir. 2015)
- de Hoog v. Commissioner of Social Security, No. 2:13-CV-0235-KJN, 2014 WL 3687499, at *7 (E.D. Cal. July 23, 2014)
- Meadows v. Saul, 807 F. App'x 643, 647 (9th Cir. 2020)
- Garrison v. Colvin, 759 F.3d 995, 1018 (9th Cir. 2014)
- Rodriguez v. Bowen, 876 F.2d 759, 763 (9th Cir. 1989)
- Tackett v. Apfel, 180 F.3d 1094, 1102-03 (9th Cir. 1999)
- Miller v. Astrue, 695 F. Supp. 2d 1042, 1048 (C.D. Cal. 2010)
- Banks v. Barnhart, 434 F. Supp. 2d 800, 805 (C.D. Cal. 2006)
- Hurt v. Kijakazi, No. 3:20-CV-00481-CSD, 2022 WL 444355, at *9-10 (D. Nev. Feb. 14, 2022)
- Howell v. Kijakazi, No. 20-CV-2517-BLM, 2022 WL 2759090, at *7 (S.D. Cal. July 14, 2022)
- Shipp v. Colvin, No. CV 13-9468 JC, 2014 WL 4829035, at *7 (C.D. Cal. Sept. 26, 2014)
- McAnally v. Berryhill, Case No. 3:18-cv-02272-GPC-RNB, 2020 WL 1443734, at *7 (S.D. Cal. Mar. 25, 2020)
- Day v. Weinberger, 522 F.2d 1154, 1156 (9th Cir. 1975)
- Bradford v. Commissioner of Social Security Administration, No. CV-21-00232-TUC-SHR (JR), 2022 WL 4538569, at *5 (D. Ariz. Aug. 18, 2022)
- Walker v. Commissioner of Social Security, Case No. 2:22-cv-01871-EJY, 2024 WL 64784, at *6 (D. Nev. Jan. 4, 2024)
- Holtan v. Kijakazi, No. 2:22-cv-01222-VCF, 2023 WL 2424648, at *3 (D. Nev. Mar. 9, 2023)
- De Gutierrez v. Saul, No. 1:19-cv-00463-BAM, 2020 WL 5701019, at *6 (E.D. Cal. Sept. 24, 2020)
- Perez v. Secretary of Health & Human Services, 958 F.2d 445, 446 (1st Cir. 1992)
- Goolsby v. Berryhill, Case No. 1:15-cv-00615-JLT, 2017 WL 1090162, at *8 (E.D. Cal. Mar. 22, 2017)
- March v. Colvin, 792 F.3d 1170, 1172 (9th Cir. 2015)
- Clarendia A. S. v. O'Malley, No. 1:24-CV-00127-DKG, 2024 WL 4851214, at *5 (D. Idaho Nov. 21, 2024)
- Lewis v. Apfel, 236 F.3d 503, 517 (9th Cir. 2001)
- Benecke v. Barnhart, 379 F.3d 587, 593 (9th Cir. 2004)
- Osborne v. Commissioner of Social Security, No. 1:22-CV-01538-EPG, 2024 WL 1312202, at *5 (E.D. Cal. Mar. 27, 2024)
- Hiler v. Astrue, 687 F.3d 1208, 1212 (9th Cir. 2012)
- Augustine ex rel. Ramirez v. Astrue, 536 F. Supp. 2d 1147, 1153 n.7 (C.D. Cal. 2008)

OPINION

(SS) Heskett v. Commissioner of Social Security

PER CURIAM.

1 2 3 4 5

UNITED STATES DISTRICT COURT

6

EASTERN DISTRICT OF CALIFORNIA

7

8 DIANE A. HESKETT,

Case No. 1:25-cv-00274-SKO 9 Plaintiff,

ORDER ON PLAINTIFF’S SOCIAL

10 v.

SECURITY COMPLAINT

11 FRANK BISIGNANO, (Doc. 1)

Commissioner of Social Security, 12 Defendant. 13 _____/

14

15 I. INTRODUCTION

16 Plaintiff Diane A. Heskett (“Plaintiff”) seeks judicial review of a final decision of the 17
Commissioner of Social Security (the “Commissioner” or “Defendant”) denying her application
18 for disability insurance benefits (“DIB”) under the Social Security Act (the “Act”). (Doc. 1.)
The 19 matter is currently before the Court on the parties’ briefs, which were submitted, without
oral 20 argument, to the Honorable Sheila K. Oberto, United States Magistrate Judge.¹

21 II. BACKGROUND

22 Plaintiff was born in 1979, completed high school, college, and obtained a CNA certificate; 23
and previously worked as a security guard. (Administrative Record (“AR”) 55–56; 83.) Plaintiff
24 filed a claim for DIB on October 11, 2022, alleging she became disabled on July 2, 2022, due
to 25 back and disc pain, feet spurs, ankle pain, Epstein Barr Virus, Type II Diabetes, an enlarged
liver 26 and spleen, carpal tunnel, and arthritis. (AR 17, 84.) 27 28 1 In May 2022, State agency
physicians A. Dispia, M.D. and Alicia V. Blando, M.D., found 2 that Plaintiff’s medically
determinable impairments were all non-severe. (AR 93–96, 112–16.).³ 3 In April 2022, Plaintiff’s
gynecologist attested on a state disability form that Plaintiff was 4 “disabled” or otherwise
incapable of performing her customary work from April 4, 2022, through 5 May 17, 2022, during
which time Plaintiff was recovering from a hysterectomy. (AR 1508.) 6 Following his examination
of Plaintiff in February 2023, consultative examiner Roger 7 Wagner, M.D., opined that Plaintiff
had no standing, walking, sitting, or manipulative limitations, 8 and did not require an assistive
device. (AR 636.) Dr. Wagner further opined that Plaintiff could 9 lift and carry up to 50 pounds
occasionally and up to 25 pounds frequently; could climb, stoop, and 10 crouch frequently with no
workplace environmental limitations. (Id.) 11 In January 2024, Plaintiff’s spinal surgeon, Ali
Najafi, M.D., opined in a discussion / plan 12 note that he would “continue to extend [Plaintiff’s]
disability as she feels she is unable to go back 13 to work due to the extreme pain in the bilateral
lower extremities as well as the weakness she is 14 experiencing.” (AR 1045.) 15 B.

Administrative Proceedings 16 The Commissioner denied Plaintiff's application for benefits initially on May 12, 2023, and 17 again on reconsideration on February 26, 2024. (AR 17, 82–120.) Consequently, Plaintiff 18 requested a hearing before an Administrative Law Judge ("ALJ"). (AR 138–39.) The ALJ 19 conducted a hearing on November 8, 2023. (AR 47–81.) Plaintiff appeared at the hearing with her 20 attorney and testified as to his alleged disabling conditions and work history. (AR 49–70.) A 21 Vocational Expert ("VE") also testified at the hearing. (AR 70–81.) 22 C. The ALJ's Decision 23 In a decision dated November 15, 2024, the ALJ found that Plaintiff was not disabled. (AR 24 17–40.) The ALJ conducted the five-step disability analysis set forth in 20 C.F.R. § 404.1520. 25 (AR 20–40.) The ALJ decided that Plaintiff last met the insured status requirements of the Act 26 27 2 Because the parties are familiar with the medical evidence, it is summarized here only to the extent relevant to the 28 contested issues. 1 through December 31, 2026, and she had not engaged in substantial gainful activity since July 2, 2 2022, the alleged onset date (step one). (AR 20.) At step two, the ALJ found Plaintiff's following 3 impairments to be severe: degenerative disc disease of the cervical spine, degenerative disc disease 4 of the lumbar spine, degenerative joint disease of the right shoulder with labral tear, bilateral carpal 5 tunnel syndrome, Epstein Barr virus infection, diabetes mellitus, fatty liver, reactive gastropathy, 6 irritable bowel syndrome, gastroesophageal reflux disease, gastritis, esophagitis, obesity, major 7 depressive disorder, generalized anxiety disorder and post-traumatic stress disorder. (AR 20–25.) 8 The ALJ then determined that Plaintiff did not have an impairment or combination of impairments 9 that met or medically equaled one of the listed impairments in 20 C.F.R. Part 404, Subpart P, 10 Appendix 1 ("the Listings") (step three). (AR 25–27.)

11 The ALJ assessed Plaintiff's residual functional capacity (RFC)⁴ and applied the 12 assessment at steps four and five. See 20 C.F.R. § 404.1520(a)(4) ("Before we go from step three 13 to step four, we assess your residual functional capacity We use this residual functional 14 capacity assessment at both step four and step five when we evaluate your claim at these steps."). 15 The ALJ determined that Plaintiff had the RFC: 16 to perform light work as defined in 20 CFR 404.1567(b). The claimant can lift and/or carry twenty pounds occasionally, ten pounds frequently, and sit, stand and 17 walk six hours each during the course of an eight-hour workday, five days a week. The claimant can frequently push and/or pull with the bilateral lower 18 extremities. The claimant can frequently push, pull, reach, handle and finger with 19 the bilateral upper extremities. The claimant can have no exposure to hazards. The claimant can occasionally climb ramps and stairs, balance, stoop, kneel, 20 crouch and crawl, but never climb ladders, ropes and scaffolds as those activities are defined in the Dictionary of Occupational Titles (D.O.T.) and Selected 21 Characteristics of Occupations (SCO). The claimant can understand, remember and carry out simple instructions. The claimant can tolerate occasional 22 interactions with supervisors and coworkers. The claimant can have no 23 interactions with the public, meaning she can have no more than incidental contact. The claimant is limited to object-oriented work, meaning she can work 24 25 4 RFC is an assessment of an individual's ability to do sustained work-related physical

and mental activities in a work setting on a regular and continuing basis of 8 hours a day, for 5 days a week, or an equivalent work schedule. 26 TITLES II & XVI: ASSESSING RESIDUAL FUNCTIONAL CAPACITY IN INITIAL CLAIMS, Social Security Ruling (“SSR”) 96-8P (S.S.A. July 2, 1996). The RFC assessment considers only functional limitations and restrictions that result 27 from an individual’s medically determinable impairment or combination of impairments. *Id.* “In determining a claimant’s RFC, an ALJ must consider all relevant evidence in the record, including, *inter alia*, medical records, lay 28 evidence, and ‘the effects of symptoms, including pain, that are reasonably attributed to a medically determinable 1 routine work setting. 2 (AR 27–37.) Although the ALJ recognized that Plaintiff’s impairments “could reasonably be 3 expected to cause some of the alleged symptoms,” the ALJ rejected Plaintiff’s subjective testimony 4 as to the “the intensity, persistence and limiting effects of these symptoms” “not entirely consistent 5 with the medical evidence and other evidence in the record.” (AR 34.) 6 The ALJ determined that Plaintiff could not perform her past relevant work (step four) but 7 that, given her RFC, she could perform a significant number of jobs in the national economy 8 (step five). (AR 37–40.) In making this determination, the ALJ posed a series of hypothetical 9 questions to the VE. (AR 71–74.) The VE testified that a person with the RFC specified above 10 could perform the job of toy stuffer, table worker, and document preparer. (AR 72–73.) The 11 ALJ ultimately concluded Plaintiff was not disabled at any time after July 2, 2022, the alleged 12 onset date. (AR 40.) 13 Plaintiff sought review of this decision before the Appeals Council, which denied review 14 on January 3, 2025. (AR 1–6.) Therefore, the ALJ’s decision became the final decision of the 15 Commissioner. 20 C.F.R. § 404.981. 16

III. LEGAL STANDARD

17 A. Applicable Law 18 An individual is considered “disabled” for purposes of disability benefits if [they are] 19 unable “to engage in any substantial gainful activity by reason of any medically determinable 20 physical or mental impairment which can be expected to result in death or which has lasted or can 21 be expected to last for a continuous period of not less than 12 months.” 42 U.S.C. § 423(d)(1)(A). 22 However, “[a]n individual shall be determined to be under a disability only if [their] physical or 23 mental impairment or impairments are of such severity that [they are] not only unable to do [their] 24 previous work but cannot, considering [their] age, education, and work experience, engage in any 25 other kind of substantial gainful work which exists in the national economy.” *Id.* § 423(d)(2)(A). 26 “The Social Security Regulations set out a five-step sequential process for determining 27 whether a claimant is disabled within the meaning of the Social Security Act.” *Tackett v. Apfel*, 28 1 180 F.3d 1094, 1098 (9th Cir. 1999) (citing 20 C.F.R. § 404.1520). The Ninth Circuit has 2 provided the following description of the sequential evaluation analysis: 3 In step one, the ALJ determines whether a claimant is currently engaged in substantial gainful activity. If so, the claimant is not disabled. If not, the ALJ 4 proceeds to step two and evaluates whether the claimant has a medically severe impairment or combination of impairments. If not, the claimant is not disabled. If 5 so, the ALJ proceeds to step three and considers whether

the impairment or combination of impairments meets or equals a listed impairment under 20 C.F.R. 6 pt. 404, subpt. P, [a]pp. 1. If so, the claimant is automatically presumed disabled. 7 If not, the ALJ proceeds to step four and assesses whether the claimant is capable of performing [their] past relevant work. If so, the claimant is not disabled. If not, 8 the ALJ proceeds to step five and examines whether the claimant has the [RFC] . . . to perform any other substantial gainful activity in the national economy. If so, 9 the claimant is not disabled. If not, the claimant is disabled. 10 *Burch v. Barnhart*, 400 F.3d 676, 679 (9th Cir. 2005). “If a claimant is found to be ‘disabled’ or 11 ‘not disabled’ at any step in the sequence, there is no need to consider subsequent steps.” Tackett, 12 180 F.3d at 1098 (citing 20 C.F.R. § 404.1520). 13 “The claimant carries the initial burden of proving a disability in steps one through four of 14 the analysis.” *Burch*, 400 F.3d at 679 (citing *Swenson v. Sullivan*, 876 F.2d 683, 687 (9th Cir. 15 1989)). “However, if a claimant establishes an inability to continue [their] past work, the burden 16 shifts to the Commissioner in step five to show that the claimant can perform other substantial 17 gainful work.” *Id.* (citing *Swenson*, 876 F.2d at 687). 18 B. Scope of Review 19 “This court may set aside the Commissioner’s denial of [social security] benefits [only] 20 when the ALJ’s findings are based on legal error or are not supported by substantial evidence in 21 the record as a whole.” Tackett, 180 F.3d at 1097 (citation omitted). “Substantial evidence . . . is 22 ‘more than a mere scintilla,’” and means only “such relevant evidence as a reasonable mind might 23 accept as adequate to support a conclusion.” *Biestek v. Berryhill*, 587 U.S. 97, 103 (2019) (quoting 24 *Consol. Edison Co. v. NLRB*, 305 U.S. 197, 229 (1938)); see also *Ford v. Saul*, 950 F.3d 1141, 25 1154 (9th Cir. 2020). 26 “This is a highly deferential standard of review.” *Valentine v. Comm’r of Soc. Sec. Admin.*, 27 574 F.3d 685, 690 (9th Cir. 2009). “The ALJ’s findings will be upheld if supported by inferences 28 reasonably drawn from the record.” *Tommasetti v. Astrue*, 533 F.3d 1035, 1038 (9th Cir. 2008) 1 (citation omitted). Additionally, “[t]he court will uphold the ALJ’s conclusion when the evidence 2 is susceptible to more than one rational interpretation.” *Id.*; see, e.g., *Edlund v. Massanari*, 253 3 F.3d 1152, 1156 (9th Cir. 2001) (“If the evidence is susceptible to more than one rational 4 interpretation, the court may not substitute its judgment for that of the Commissioner.” (citations 5 omitted)). 6 Nonetheless, “the Commissioner’s decision ‘cannot be affirmed simply by isolating a 7 specific quantum of supporting evidence.’” Tackett, 180 F.3d at 1098 (quoting *Sousa v. Callahan*, 8 143 F.3d 1240, 1243 (9th Cir. 1998)). “Rather, a court must ‘consider the record as a whole, 9 weighing both evidence that supports and evidence that detracts from the [Commissioner’s] 10 conclusion.’” *Id.* (quoting *Penny v. Sullivan*, 2 F.3d 953, 956 (9th Cir. 1993)). 11 Finally, courts “may not reverse an ALJ’s decision on account of an error that is harmless.” 12 *Molina v. Astrue*, 674 F.3d 1104, 1111 (9th Cir. 2012) (citing *Stout v. Comm’r, Soc. Sec. Admin.*, 13 454 F.3d 1050, 1055–56 (9th Cir. 2006)). Harmless error “exists when it is clear from the record 14 that ‘the ALJ’s error was inconsequential to the ultimate nondisability determination.’” 15 *Tommasetti*, 533 F.3d at 1038 (quoting *Robbins v. Soc. Sec. Admin.*, 466 F.3d 880, 885 (9th Cir. 16 2006)). “[T]he burden of showing that an error is harmful normally falls

upon the party attacking the agency's determination." *Shinseki v. Sanders*, 556 U.S. 396, 409 (2009) (citations omitted).

IV. DISCUSSION

Plaintiff asserts two claims of error: (1) Plaintiff's physical RFC was not supported by substantial evidence because the ALJ failed in their duty to develop the record and obtain an opinion from an examining physician; and (2) the ALJ failed to offer clear and convincing reasons for rejecting Plaintiff's subjective symptom complaints. (See Doc. 11-1.) The Court agrees that the ALJ erred by not fully developing the record and will remand for further proceedings on that basis.

A. The ALJ's Physical RFC Determination is Not Supported by Substantial Evidence

Plaintiff first claims that the ALJ erred in formulating an RFC after rejecting each of the medical opinions in the record as unpersuasive. (Doc. 11-1 at 5–9.) In defense of the ALJ's decision, the Commissioner argues that because ALJs—not medical professionals—are responsible for determining a claimant's RFC, the ALJ's conclusion must be upheld. (Doc. 13 at 23–4.) An RFC is the most a claimant can do despite their limitations and is based upon all relevant evidence in the record, including medical records, medical source statements, and symptom testimony. 20 C.F.R. § 404.1545(a)(1)–(3); *Shafer v. Barnhart*, 120 F. Appx. 688, 698 (9th Cir. 2005). And, as the Commissioner contends, it is true that a determination of residual functional capacity is not a medical opinion, but a legal decision that is expressly reserved for the Commissioner. See (Doc. 13 at 2); 20 C.F.R. §§ 414.927(d)(2) (RFC is not a medical opinion), 414.946(c) (identifying the ALJ as responsible for determining RFC). And that legal determination necessarily involves engaging in credibility determinations, resolving conflicts in medical testimony, and resolving evidentiary ambiguities, see *Andrews v. Shalala*, 53 F.3d 1035, 1039–40 (9th Cir. 1995)—such that an ALJ's RFC determination need not mirror any particular provider's opinion, see e.g., *Petrini v. Berryhill*, 705 F. App'x. 511, 512 (9th Cir. 2017). Additionally, when formulating an RFC, ALJs have some discretion to perform independent review of medical evidence and translate that evidence into functional terms. See *Rounds v. Comm'r of Soc. Sec.*, 807 F.3d 996, 1006 (9th Cir. 2015) (“[T]he ALJ is responsible for translating and incorporating clinical findings into a succinct RFC.”). For example, claimants routinely continue pursuing care between the State agency physician's review at the initial/reconsideration levels and the ALJ's subsequent hearing decision, thereby generating new medical records. See *de Hoog v. Comm'r of Soc. Sec.*, No. 2:13–CV–0235–KJN, 2014 WL 3687499, at *7 (E.D. Cal. July 23, 2014) (explaining that “[i]n virtually every case further evidence is received after the [S]tate agency physicians render their assessments—sometimes additional evidence and records are even received after the ALJ hearing. For that very reason, the ALJ is tasked with considering the evidence in the record as a whole.”). If the mere passage of time and presence of additional medical evidence in the record established ambiguity, a consultative examination would be required in every case. Yet the regulations provide that the agency may obtain a consultative examination to resolve evidentiary ambiguity or insufficiency,

28 not that an ALJ must do so in every case. See 20 C.F.R. § 414.919; *Meadows v. Saul*, 807 F. 1 App'x 643, 647 (9th Cir. 2020) (noting there “is always some time lapse between a consultant's 2 report and the ALJ hearing and decision, and the Social Security regulations impose no limit on 3 such a gap in time.”). 4 In light of this framework, the Court is mindful that the ALJ, not this Court, is responsible 5 for resolving conflicts in the evidence and that “[a]n ALJ’s duty to develop the record further is 6 triggered only when there is ambiguous evidence or when the record is inadequate to allow for 7 proper evaluation of the evidence.” *Mayes v. Massanari*, 276 F.3d 453, 459–60 (9th Cir. 2001) 8 (emphasis added). Therefore, the question before this Court is whether the ALJ’s duty to develop 9 the record further was triggered under the circumstances in the present case. 10 In answering that question, the Court first observes that ALJs are obliged to exercise 11 caution in formulating an RFC that leads to a finding of non-disability in cases where “no doctor or 12 other medical expert opined, on the basis of a full review of all relevant records,” that Plaintiff 13 could perform work during the relevant time period. See *Garrison v. Colvin*, 759 F.3d 995, 1018 14 (9th Cir. 2014) (holding that ALJ “should have exercised caution because “no doctor or other 15 medical expert . . . opined, on the basis of a full review of all relevant records, that [Plaintiff] is 16 capable of working or is prepared to return to work”) (citing *Rodriguez v. Bowen*, 876 F.2d 759, 17 763 (9th Cir. 1989)). For the following reasons, the Court finds that such caution was warranted 18 here. 19 In the present case, the ALJ considered and evaluated several medical opinions regarding 20 the effects of Plaintiff’s impairments, specifically from State Agency medical consultants—Dr. 21 Dipsia on initial review, (see AR 93–96), and Dr. Blando on reconsideration, (see AR 112–16)—a 22 consultative examiner—Dr. Wagner, (AR 636)—and several of Plaintiff’s treating physicians— 23 including Plaintiff’s gynecologist, Dr. Marquez, (AR 1508), and Plaintiff’s spinal surgeon, Dr. 24 Najafi, (AR 1045). See also 20 C.F.R. § 404.1527(a) (2), 416.927(a)(2) (defining medical opinions 25 as statements that “reflect judgments about the nature and severity of your impairment(s), 26 including your symptoms, diagnosis and prognosis, what you can still do despite your 27 impairment(s), and your physical or mental restrictions.”). The ALJ found each of these medical 28 opinions “unpersuasive,” finding that (1) “[t]he Stage Agency medical consultants failed to 1 provide supportive evidence to support[] a non severe finding” and that their findings were 2 “inconsistent” with Plaintiff’s impairments and subjective reports of pain; (2) Dr. Wagner’s 3 opinion was “inadequately supported and inconsistent with his own findings,” as well as 4 “inconsistent” with objective imaging and Plaintiff’s history of surgical and other treatment 5 interventions;” (3) Dr. Marquez’s opinion was “not a residual capacity assessment” and was only 6 “intended for a short period of less than two months;” and (4) Dr. Najafi’s opinion impermissibly 7 opined on “an issue reserved to the Commissioner of Social Security.” (AR 29.) In other words, 8 the ALJ found every medical opinion in the record concerning Plaintiff’s impairments not credible 9 or otherwise impermissible and then found that, on one hand—contrary to the consultative 10 examiner’s and State agency physicians’ opinions—Plaintiff’s impairments would result in some 11 work-related restrictions instead of those opined—

but on the other hand—contrary to the opinions 12 of several of Plaintiff’s treating physicians—Plaintiff was not impaired in a way that qualified as 13 disabled under the relevant legal framework. While the absence of a medical opinion is not 14 necessarily fatal, the RFC determination still must be supported by substantial evidence. See 15 *Bradford v. Comm’r of Soc. Sec. Admin.*, No. CV-21-00232-TUC-SHR (JR), 2022 WL 4538569, 16 at *5 (D. Ariz. Aug. 18, 2022). 17 Turning to whether the ALJ’s assessed RFC is supported by substantial evidence, the Court 18 observes that it is well-settled that an ALJ may not render their own medical opinion and is not 19 empowered to independently assess clinical findings “when there is ambiguous evidence or when 20 the record is inadequate to allow for proper evaluation of the evidence.” *Mayes*, 276 F.3d 459–60; 21 see also, *Tackett*, 180 F.3d at 1102–03 (holding an ALJ erred in rejecting physicians’ opinions and 22 rendering his own medical opinion); *Miller v. Astrue*, 695 F. Supp. 2d 1042, 1048 (C.D. Cal. 2010) 23 (reasoning that it is improper for the ALJ to act as the medical expert); *Banks v. Barnhart*, 434 F.

24 Supp. 2d 800, 805 (C.D. Cal. 2006) (“An ‘ALJ cannot arbitrarily substitute his own judgment for

25 competent medical opinion . . . and he ‘must not succumb to the temptation to play doctor and 26 make his own independent medical findings’” (in(quoted). 27 Applying this rule to the present case, the Court finds that the ALJ did not simply 28 synthesize the medical evidence and opinions to reach an RFC determination. Instead, without 1 relying on any medical opinion regarding what work-related restrictions would be appropriate, the 2 ALJ based their RFC determination on their own interpretation of Plaintiff’s testimony and the 3 medical evidence—formulating limitations to the RFC out of whole cloth and concluding that 4 those limitations were sufficient to address Plaintiff’s impairments. For example, while the 5 treatment records establish Plaintiff was obese, (AR 2155, 2158), and had back, (AR 1025–27, 6 1030, 1032, 1035, 1042, 1090), right shoulder, (AR 421, 760–61, 764, 768, 788, 876, 1259–68), 7 neck, (AR 866, 1042), and gastrointestinal impairments, (AR 501, 510, 545, 563–64, 567–68, 573, 8 902, 949, 958, 971, 1338–39, 2049, 2094), the records do not indicate the functional limitations 9 caused by such impairments. See *Hurt v. Kijakazi*, No. 3:20-CV-00481-CSD, 2022 WL 444355, at 10 *9–10 (D. Nev. Feb. 14, 2022) (“When the ‘medical findings in the record merely diagnose [the] 11 claimant’s exertional impairments and do not relate those diagnoses to specific residual functional 12 capabilities . . . [the] bare medical findings are unintelligible to a lay person in terms of residual 13 functional capacity.’”) (quoting *Rosado v. Sec’y of Health & Human Servs.*, 807 F.2d 292, 293 (1st 14 Cir. 1986)). Moreover, while the imaging studies of Plaintiff’s neck, lumbar spine, and shoulder 15 yielded results such as mild C1-C2 degenerative changes without spinal canal stenosis, (AR 441), 16 tiny acute versus subacute Schmorl’s node within the superior endplate of C7 associated with 17 minimal adjacent marrow edema, (AR 539), mild degenerative disc disease throughout the cervical 18 spine with no large disc bulge or disc herniation and no canal or foraminal stenosis, (AR 779), mild 19 retrolisthesis in the body of the L5 vertebra in relationship to the sacrum, (AR 414),

tear of the 20 posterior glenoid labrum and degenerative changes of the anterior superior labrum, (AR 537), mild 21 subacromial subdeltoid bursitis, (AR 776), and mild to moderate inferior spurring along the distal 22 clavicle due to acromioclavicular joint osteoarthritis and slightly laterally down sloping acromion, 23 (AR 1918)—it is not clear what functional limitations result from those clinical findings. See 24 *Howell v. Kijakazi*, No. 20-CV-2517-BLM, 2022 WL 2759090, at *7 (S.D. Cal. July 14, 2022) 25 (MRIs, radiological studies, and X-rays “generally reflect only the findings, impressions, and 26 medical diagnoses, which are difficult for a lay person to interpret.”). 27 Therefore, the Court finds that the underlying treatment and imaging records are the kinds 28 of “raw,” *Shipp v. Colvin*, No. CV 13-9468 JC, 2014 WL 4829035, at *7 (C.D. Cal. Sept. 26, 1 2014), and “ambiguous” evidence that itself does not provide sufficient indications of Plaintiff’s 2 physical functional limitations and thus, the ALJ was not qualified to the translate evidence into 3 functional limitations and engage in their “own exploration and assessment” of a Plaintiff’s 4 impairments. See *McAnally v. Berryhill*, Case No.: 3:18-cv-02272-GPC-RNB, 2020 WL 1443734, 5 at *7 (S.D. Cal. Mar. 25, 2020) (quoting *Day v. Weinberger*, 522 F.2d 1154, 1156 (9th Cir. 1975)). 6 It then follows that, under these circumstances, the ALJ had a duty to develop the record further, 7 see *Ford*, 950 F.3d at 1156. 8 Indeed, Ninth Circuit courts have found that “[b]arring a few exceptions, an ALJ must have 9 a doctor’s opinion of a claimant’s functional capacity in order for there to be substantial evidence 10 supporting the decisions.” *Bradford*, 2022 WL 4538569, at *5 (quoting *Howell*, 2022 WL 11 2759090, at *7); *Walker v. Comm’r of Soc. Sec.*, Case No. 2:22-cv-01871-EJY, 2024 WL 64784, at 12 *6 (D. Nev. Jan. 4, 2024) (“While the ALJ ‘can pick and choose between opinions expressed by 13 the experts,’ when an ALJ decides severity or residual functional capacity ‘without the support of 14 any of the medical opinion evidence,’ this is error.”) (quoting *Holtan v. Kijakazi*, 2:22-cv-01222- 15 VCF, 2023 WL 2424648, at *3 (D. Nev. Mar. 9, 2023)). Or, put another way, without a persuasive 16 medical opinion to support the conclusion that Plaintiff can lift and/or carry twenty pounds 17 occasionally and ten pounds frequently; sit, stand and walk six hours each during the course of an 18 eight-hour workday, five days a week; frequently push and/or pull with the bilateral lower 19 extremities; frequently push, pull, reach, handle and finger with the bilateral upper extremities; 20 have no exposure to hazards; only occasionally climb ramps and stairs, balance, stoop, kneel, 21 crouch and crawl; and never climb ladders, ropes and scaffolds—the ALJ’s RFC lacks the support 22 of substantial evidence. See *Holtan*, 2023 WL 2424648, at *3 (finding that the ALJ erred 23 primarily by simply summarizing the medical evidence without making it clear how the ALJ then 24 translated that evidence into an RFC, noting that it was “particularly concerning because the ALJ 25 did not rely on any of the medical opinions, finding all of the medical opinions of record 26 unpersuasive.”); *De Gutierrez v. Saul*, No. 1:19-cv-00463-BAM, 2020 WL 5701019, at *6 (E.D. 27 Cal. Sept. 24, 2020) (“Without a medical opinion to support the conclusion that Plaintiff was able 28 to perform” a certain level of work, lift and carry certain weight, or sit, stand or walk for certain 1 periods of time, “the ALJ’s RFC lacks the support of substantial evidence.”) (citing

Perez v. Sec’y 2 of Health & Human Servs., 958 F.2d 445, 446 (1st Cir. 1991) (“where an ALJ reaches conclusions 3 about claimant’s . . . capacity without any assessment of residual functional capacity by a 4 physician, the ALJ’s conclusions are not supported by substantial evidence”)); Goolsby v. 5 Berryhill, Case No. 1:15-cv-00615-JLT, 2017 WL 1090162, at *8 (E.D. Cal. Mar. 22, 2017) 6 (finding that an ALJ erred in including “simple routine tasks” in RFC when the record did not 7 contain medical opinions supporting this limitation); Shipp, 2014 WL 4829035, at *7 (“Since . . . 8 the record contains no assessment by a treating or examining doctor regarding the effect of 9 plaintiff’s physical impairments on her ability to function, it appears that the ALJ’s physical 10 residual functional capacity assessment was erroneously based solely on the ALJ’s own, lay 11 interpretation of plaintiff’s testimony and other raw medical evidence in the record.”). 12 Accordingly, the Court finds that the ALJ erred in evaluating Plaintiff’s RFC. 13 B. The ALJ’s Error was not harmless. 14 The Court must now consider whether the ALJ’s error was harmless. Molina, 674 F.3d at 15 1115. Courts look to the record as a whole to determine whether the error alters the outcome of 16 the case. Id.; March v. Colvin, 792 F.3d 1170, 1172 (9th Cir. 2015). An error is harmless “where 17 it is inconsequential to the ultimate nondisability determination.” Molina, 674 F.3d at 1115 18 (citations omitted) (first quoting Balsamo v. Chater, 142 F.3d 75, 81 (2d Cir. 1998), and then 19 quoting Rohan v. Chater, 98 F.3d 966, 970 (7th Cir. 1996)). 20 This Court finds this was harmful error necessitating remand. Tommasetti, 533 F.3d at 21 1038 (ALJ error is harmless if it is “inconsequential to the ultimate nondisability determination.”). 22 While the ALJ assigned physical limitations restricting Plaintiff to light work with additional 23 limitations, the RFC is still without supporting evidence. Had the ALJ included different 24 limitations in the RFC based upon a proper review of the evidence and an adequate record, the 25 ultimate disability determination may have been different.⁵ See Clarendia A. S. v. O’Malley, No. 26 1:24-CV-00127-DKG, 2024 WL 4851214, at *5 (D. Idaho Nov. 21, 2024) (finding harmful error 27 28 5 This is not to say that the disability determination will or should be different regarding the period at issue--only that 1 where the ALJ relied on her own interpretation of the medical records without any medical opinion 2 of Plaintiff’s physical functioning in formulating the RFC). In particular, because the record “[did] 3 not support the assumptions in the hypothetical[s]” posed to the VE, the hypotheticals were 4 incomplete and therefore, the “vocational expert’s opinion [had] no evidentiary value.” Lewis v. 5 Apfel, 236 F.3d 503, 517 (9th Cir. 2001). 6 In a case where the ALJ’s determination is not supported by substantial evidence or is 7 tainted by legal error, the court may remand the matter for additional proceedings or an immediate 8 award of benefits. Remand for additional proceedings is proper where (1) outstanding issues must 9 be resolved, and (2) it is not clear from the record before the court that a claimant is disabled. See 10 Benecke v. Barnhart, 379 F.3d 587, 593 (9th Cir. 2004). 11 Here, the Court finds that remand for further proceedings is warranted. See Osborne v. 12 Commissioner of Soc. Sec., No. 1:22-CV-01538-EPG, 2024 WL 1312202, at *5 (E.D. Cal. Mar. 13 27, 2024) (remanding for further proceedings where the ALJ relied on their own judgment in 14 assessing the RFC without

the support of any medical opinion evidence). On remand, the 15 Commissioner shall further develop the record, as outlined above, to allow for proper 16 consideration of the medical evidence related to the time period at issue. 17 C. The Court Declines to Determine Plaintiff's Remaining Assertion of Error 18 As the Court finds that remand is appropriate for further development of the record, the 19 Court does not reach Plaintiff's additional assertion of error directed to her subjective symptom 20 complaints, which were discounted in part because they were inconsistent with and/or 21 unsupported by that undeveloped record. See *Hiler v. Astrue*, 687 F.3d 1208, 1212 (9th Cir. 22 2012) ("Because we remand the case to the ALJ for the reasons stated, we decline to reach 23 [plaintiff's] alternative ground for remand."); see also *Augustine ex rel. Ramirez v. Astrue*, 536 F.

24 Supp. 2d 1147, 1153 n.7 (C.D. Cal. 2008) ("[The] Court need not address the other claims 25 plaintiff raises, none of which would provide plaintiff with any further relief than granted, and all 26 of which can be addressed on remand.").

27 V. CONCLUSION AND ORDER

28 Based on the foregoing, the Court finds that the ALJ's decision is not supported by 1 substantial evidence and is therefore VACATED, and the case is REMANDED to the ALJ for 2 further proceedings consistent with this Order. The Clerk of this Court is DIRECTED to enter 3 judgment in favor of Plaintiff Diane A. Heskett and against Defendant Frank Bisignano, 4 Commissioner of Social Security. 5 IT IS SO ORDERED. 6 7 Dated: July 16, 2025 /s/ Sheila K. Oberto .

UNITED STATES MAGISTRATE JUDGE

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