

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Brittany R. v. Frank Bisignano

Brittany R. · No. 5:24-cv-01193-MAA · Decided August 4, 2025

OPINION

Brittany Antoinette Robles v. Martin O Malley

PER CURIAM.

1 2 3 4 5 6 7 8

UNITED STATES DISTRICT COURT

9

CENTRAL DISTRICT OF CALIFORNIA

10 11 BRITTANY R., 1 Case No. 5:24-cv-01193-MAA 12 Plaintiff, MEMORANDUM
DECISION AND

13 ORDER REVERSING DECISION OF

v.

14 THE COMMISSIONER AND

FRANK BISIGNANO, REMANDING FOR FURTHER

15 Commissioner of Social Security, ADMINISTRATIVE PROCEEDINGS 16 Defendant. 17

18 I. INTRODUCTION

19 On June 6, 2024, Plaintiff Brittany R. (“Plaintiff”) filed a Complaint seeking 20 review of
Defendant Commissioner of Social Security’s (“Commissioner” or 21 “Defendant”) final decision
denying her application for disability insurance benefits 22 under Title II of the Social Security
Act. (Compl., ECF No. 1.) Pursuant to 28 23 U.S.C. § 636(c), the parties consented to the
jurisdiction of a United States 24 Magistrate Judge. (ECF Nos. 6–8.) On August 6, 2024,
Defendant filed an Answer 25 26 1 Plaintiff’s name is partially redacted in accordance with
Federal Rule of Civil

27 Procedure 5.2(c)(2)(B) and the recommendation of the Committee on Court

Administration and Case Management of the Judicial Conference of the United 28 States. 1
(Answer, ECF No. 11) and Certified Administrative Record (“AR,” ECF Nos. 11- 2 1–11-9). On
September 5, 2024, Plaintiff filed a Brief. (Pl.’s Br., ECF No. 3 12.) On October 16, 2024,
Defendant filed a Response Brief. (Def.’s Br., ECF No. 4 16.) On August 30, 2024, Plaintiff filed
her Reply in Support of Plaintiff’s 5 Brief. (Reply, ECF No. 17.) This matter is fully briefed and
ready for decision. 6 The Court deems the matter appropriate for resolution without oral 7
argument. See Fed. R. Civ. P. 78(b); C.D. Cal. L.R. 7-15. For the reasons 8 discussed below, the
Court reverses the decision of the Commissioner and remands 9 the matter for further

administrative proceedings. 10

11 II. SUMMARY OF ADMINISTRATIVE PROCEEDINGS

12 On February 8, 2021,² Plaintiff filed a Title XVI application for supplemental 13 security income, alleging disability beginning April 1, 2020. (AR 196–210.) The 14 Commissioner denied the application on July 12, 2021 (Id. at 102–106) and again 15 upon reconsideration on March 28, 2022 (Id. at 124–128.) On April 18, 2022, 16 Plaintiff requested a hearing before an Administrative Law Judge (“ALJ”). (Id. 17 130.) ALJ Barry O’ Melinn conducted a telephonic hearing on September 6, 2023, 18 at which he heard testimony from Plaintiff, who was represented by counsel, and a 19 vocational expert. (Id. at 34–49.) 20 On September 21, 2023, the ALJ issued a decision finding that Plaintiff was 21 not disabled after making the following findings under the Commissioner’s five- 22 step evaluation. (Id. at 17–27.) At step one, the ALJ found that Plaintiff had not 23 engaged in substantial gainful activity since the application date. (Id. at 19 ¶ 1.) At 24 step two, the ALJ found that Plaintiff had the following severe impairments: 25 multiple sclerosis and obesity. (Id. ¶ 2.) At step three, the ALJ found that Plaintiff 26 did not have an impairment or combination of impairments that met or medically 27 2 In the record, the Title XVI application is dated March 19, 2021 (AR 196-210). 28 1 equaled the severity of one of the agency’s listed impairments. (Id. 22 ¶ 4.) Next, 2 the ALJ found that Plaintiff had the following Residual Functional Capacity 3 (“RFC”): 4 [T]he claimant has the residual functional capacity to 5 perform medium work as defined in 20 CFR 416.967(c) 6 except that she can frequently climb ramps and stairs; occasionally climb ladders, ropes, or scaffolds; and 7 frequently balance, stoop, kneel, crouch, and crawl. She 8 could avoid concentrated exposure to extreme heat and vibration. 9 10 (AR 22 ¶ 4.) 11 At step four, the ALJ found that Plaintiff had no past relevant work. (Id. at 12 26 ¶ 5.) At step five, the ALJ concluded Plaintiff was not under a disability, as 13 defined by the Social Security Act, from the date the application was filed through 14 the date of decision. (Id. at 27 ¶ 10.) 15 On April 8, 2024, the Appeals Council denied Plaintiff’s request for 16 review. (Id. at 1–63.) Plaintiff now seeks judicial review of the ALJ’s decision, 17 which stands as the final decision of the Commissioner. See 42 U.S.C. § 405(g). 18

19 III. STANDARD OF REVIEW

20 Pursuant to 42 U.S.C. § 405(g), the Court reviews the Commissioner’s final 21 decision to determine whether the Commissioner’s “decision to deny benefits... ‘is 22 not supported by substantial evidence or is based on legal error.’” *Treichler v. 23 Comm’r of SSA*, 775 F.3d 1090, 1098 (9th Cir. 2014) (quoting *Andrews v. Shalala*, 24 53 F.3d 1035, 1039 (9th Cir. 1995)). “‘Substantial evidence’ means more than a 25 mere scintilla, but less than a preponderance; it is such relevant evidence as a 26 reasonable person might accept as adequate to support a conclusion.” *Lingenfelter 27 v. Astrue*, 504 F.3d 1028, 1035 (9th Cir. 2007) (quoting *Robbins v. SSA*, 466 F.3d 28 880, 882 (9th Cir. 2006)); see also *Richardson v. Perales*, 402 U.S. 389, 401 1 (1971). The Court “must consider the record as a whole, weighing both the 2 evidence that supports and the evidence that detracts from the Commissioner’s 3 conclusion, and may not affirm

simply by isolating a specific quantum of 4 supporting evidence.” *Garrison v. Colvin*, 759 F.3d 995, 1009 (9th Cir. 2014) 5 (quoting *Lingenfelter*, 504 F.3d at 1035). “‘Where evidence is susceptible to more 6 than one rational interpretation,’ the ALJ’s decision should be upheld.” *Orn v. 7 Astrue*, 495 F.3d 625, 630 (9th Cir. 2007) (quoting *Burch v. Barnhart*, 400 F.3d 8 676, 679 (9th Cir. 2005)). “If the evidence can support either affirming or reversing 9 the ALJ’s conclusion, [a court] may not substitute [its] judgment for that of the 10 ALJ.” *Robbins*, 466 F.3d at 882. 11

12 IV. DISCUSSION

13 A. Disputed Issues 14 Plaintiff raises three disputed issues: 15 1. Whether the ALJ erred in rejecting Dr. Truong’s 3 medical opinion. 16 2. Whether the ALJ erred in finding no limitations considering Plaintiff’s 17 mental condition. 18 3. Whether the ALJ impermissibly rejected Plaintiff’s subjective 19 symptom testimony. 20 (Pl.’s Br. 8, 11, 14.) 21 For the reasons discussed below, the Court finds that reversal and remand for 22 further administrative proceedings are warranted for Issue Three, based on the 23 ALJ’s failure to properly assess Plaintiff’s pain testimony. Having found that 24 remand is warranted, the Court declines to address Plaintiff’s remaining 25 arguments. See *Hiler v. Astrue*, 687 F.3d 1208, 1212 (9th Cir. 2012) (“Because we 26 remand the case to the ALJ for the reasons stated, we decline to reach [plaintiff’s] 27 3 Both Plaintiff and the ALJ decision incorrectly refer to “Dr. Townsend.” (See AR 28 332, 508, 512, 513, 519-523.) 1 alternative ground for remand.”); see also *Augustine ex rel. Ramirez v. Astrue*, 536 2 F. Supp. 2d 1147, 1153 n.7 (C.D. Cal. 2008) (“[The] Court need not address the 3 other claims plaintiff raises, none of which would provide plaintiff with any further 4 relief than granted, and all of which can be addressed on remand.”). 5 6 B. Applicable Law 7 When assessing a claimant’s credibility regarding subjective symptom 8 testimony or allegations, the ALJ must engage in a two-step analysis. *Trevizo v. 9 Berryhill*, 871 F.3d 664, 678 (9th Cir. 2017). “First, the ALJ must determine 10 whether the claimant has presented objective medical evidence of an underlying 11 impairment ‘which could reasonably be expected to produce the pain or other 12 symptoms alleged.’” *Garrison*, 759 F.3d at 1014 (quoting *Lingenfelter*, 504 F.3d at 13 1035–36). “In this analysis, the claimant is not required to show ‘that her 14 impairment could reasonably be expected to cause the severity of the symptom she 15 has alleged; she need only show that it could reasonably have caused some degree 16 of the symptom.’” *Id.* (quoting *Smolen v. Chater*, 80 F.3d 1273, 1282 (9th Cir. 17 1996)). “Nor must a claimant produce ‘objective medical evidence of the pain or 18 fatigue itself, or the severity thereof.’” *Id.* (quoting *Smolen*, 80 F.3d at 1282). 19 If the claimant satisfies this first step, and there is no evidence of 20 malingering, the ALJ must provide specific, clear and convincing reasons for 21 rejecting the claimant’s testimony about the symptom severity. *Garrison*, 759 F.3d 22 at 1014–15; see also *Robbins*, 466 F.3d at 883 (“[U]nless an ALJ makes a finding 23 of malingering based on affirmative evidence thereof, he or she may only find an 24 applicant not credible by making specific findings as to credibility and stating clear 25 and convincing reasons for each.”). “This is not an easy requirement to meet: ‘The 26 clear and convincing standard is the most demanding required in Social Security 27 cases.’”

Garrison, 759 F.3d at 1015 (quoting *Moore v. Comm’r of SSA*, 278 F.3d 28 920, 924 (9th Cir. 2002)). The ALJ must evaluate “the intensity and persistence of 1 those symptoms to determine the extent to which the symptoms limit [the 2 claimant’s] ability to perform work-related activities for an adult” Social Security Ruling 16-3p, 2016 SSR LEXIS 4, at *4 (Oct. 25, 2017). 4 While the ALJ cannot “delve into wide-ranging scrutiny of the claimant’s 5 character and apparent truthfulness,” *Trevizo*, 871 F.3d at 678 n.5, the ALJ may 6 consider “prior inconsistent statements concerning the symptoms, and other 7 testimony by the claimant that appears less than candid; . . . unexplained or 8 inadequately explained failure to seek treatment or to follow a prescribed course of 9 treatment; and . . . the claimant’s daily activities,” *Ghanim v. Colvin*, 763 F.3d 10 1154, 1163 (9th Cir. 2014) (quoting *Smolen*, 80 F.3d at 1284). Inconsistencies 11 between a claimant’s testimony and conduct, or internal contradictions in the 12 claimant’s testimony, also may be relevant. *Burrell v. Colvin*, 775 F.3d 1133, 13 1137–38 (9th Cir. 2014). In addition, the ALJ may consider “the claimant’s work 14 record and observations of treating and examining physicians and other third parties 15 regarding, among other matters, the nature, onset, duration, and frequency of the 16 claimant’s symptom; precipitating and aggravating factors; [and] functional 17 restrictions caused by the symptoms” *Smolen*, 80 F.3d at 1284. However, it is 18 improper for an ALJ to reject subjective testimony based “‘solely on a lack of 19 objective medical evidence to fully corroborate’ the claimant’s allegations.” *Bray v. Comm’r of SSA*, 554 F.3d 1219, 1227 (9th Cir. 2009) (quoting *Bunnell v. Sullivan*, 947 F.2d 341, 345 (9th Cir. 1991)). 22 The ALJ must make “a credibility determination with findings that are 23 sufficiently specific to permit the court to conclude that the ALJ did not arbitrarily 24 discredit claimant’s testimony.” *Tommasetti v. Astrue*, 533 F.3d 1035, 1039 (9th Cir. 2008) (quoting *Thomas v. Barnhart*, 278 F.3d 947, 958 (9th Cir. 2002)); see 25 *Brown-Hunter v. Colvin*, 806 F.3d 487, 493 (9th Cir. 2015) (“A finding that a 27 claimant’s testimony is not credible ‘must be sufficiently specific to allow a 28 reviewing court to conclude the adjudicator rejected the claimant’s testimony on 1 permissible grounds and did not arbitrarily discredit a claimant’s testimony 2 regarding pain.’” (quoting *Bunnell*, 947 F.2d at 345–46)). Although an ALJ’s 3 interpretation of a claimant’s testimony may not be the only reasonable one, if it is 4 supported by substantial evidence, “it is not [the court’s] role to second-guess it.” 5 *Rollins v. Massanari*, 261 F.3d 853, 857 (9th Cir. 2001). 6 7 C. Background 8 1. Function Report and Third-Party Report 9 Plaintiff’s first articulation of her symptoms appears in a function report 10 dated September 18, 2021 (“2021 Function Report”). (2021 Report, AR 280.) At 11 that time, Plaintiff reported that she was experiencing a loss of feeling in her hands 12 and was suffering from pain in her legs, headaches, and fatigue. (Id.) Additionally, 13 Plaintiff mentioned insomnia and back pain. (Id.) 14 The 2021 Function Report also includes a detailed account of Plaintiff’s daily 15 activities at the time. While having no problem with personal care, Plaintiff was 16 unable to cook a “complete” meal. (Id.) Because she could not remain standing for 17 more than ten

minutes, Plaintiff was only able to prepare sandwiches or warm 18 frozen meals every day. (Id. at 282.) Plaintiff was able to do the laundry only 19 because it did not require her to remain standing (Id.) Plaintiff could go out alone 20 for no more than 20 minutes once a week, drive her own car when deemed 21 necessary and only if her leg pain allowed her to do so; otherwise, she would ask 22 for a ride (Id). Her socialization was reduced to phone calls every few days and 23 visiting friends “every couple months.” (Id. at 284.) 24 Plaintiff also reported several limitations derived from her symptoms. These 25 limitations included being able to lift to three pounds, stand for no more than 26 twenty to forty minutes, walk only up to twenty minutes, and pay attention for no 27 longer than ten minutes. (Id. at 285.) Plaintiff had “trouble thinking so talking [was] 28 difficult at times.” (Id.) Plaintiff needed to re-read multiple times what she had read 1 and ask for clarifications or repetitions of what had been said to her (Id.) Plaintiff 2 also reported that, because of the fatigue, it was “hard getting through a day” 3 without taking breaks. (Id. at 281.) For instance, she needed to rest after taking a 4 shower every day. (Id.) The headaches would “come and go all day,” and they felt 5 like “throbbing pain . . . a bad freeze.” (Id. at 288.) Before these symptoms started 6 to appear, Plaintiff was able to “stand, walk for periods of time, handle the heat, not 7 need naps.” (Id. at 281.) 8 Plaintiff’s statements about her symptoms were corroborated by a third-party 9 function report of September 2021, signed by Robert Arthur Peterson (“Third-Party 10 Report”). Mr. Peterson, who claimed to be Plaintiff’s “long time friend,” noted that 11 Plaintiff was having “a hard time getting around.” (Id. at 290.) Mr. Peterson was 12 taking care of Plaintiff’s cat because she was not able to do it by herself. (Id. at 13 291.) With regard to Plaintiff’s situation before the symptoms appeared, Mr. 14 Peterson noted that Plaintiff “was able to get through the day without rest . . . [and] 15 go grocery shopping without getting tired.” (Id.) Mr. Peterson confirmed that 16 Plaintiff suffered from fatigue. (See id. at 294 (stating that Plaintiff had no hobbies 17 or interests because “she g[ot] tired very easy” and that “she c[ouldn’t] do much of 18 anything”); see also id. at 293 (explaining that Plaintiff did not do house or yard 19 work because she felt “overheated,” and “too tired (risk of passing out)”); see also 20 id. at 292 (stating that Plaintiff did not cook because of “to[o] much fatigue”).) 21 Mr. Peterson’s account of Plaintiff’s daily activities was consistent with 22 Plaintiff’s statements. With respect to Plaintiff’s personal care, Mr. Peterson 23 detailed that Plaintiff got tired of dressing, that she had to sit down in the shower, 24 and that it was difficult for her to wash her hair. (Id. at 291.) Plaintiff could not 25 “cook for herself anymore,” and therefore her meals were “always frozen,” which 26 ultimately resulted in Plaintiff’s health worsening “due to non fresh [sic] meals.” 27 (Id. at 292.) Consistent with Plaintiff’s testimony, Mr. Peterson stated that Plaintiff 28 was only able to go to the store for twenty to thirty minutes because she could not 1 bear standing any longer. (Id. at 293.) Plaintiff’s weekly trips to the store would 2 take place in the company of someone else, and only when she was in need to get 3 “more food or things like deodorant.” (Id. at 294.) 4 5 2. Hearing Testimony 6 At the hearing of September 6, 2023, Plaintiff thoroughly described the 7 symptoms referred to above and explained their evolution as detailed below. 8 Plaintiff suffered

from numbness in her arms, legs, and hands. (Id. at 40.) 9 Plaintiff sometimes experienced “tingling,” meaning she felt “like . . . walking on 10 like [sic] pin needles.” (Id.). The pain was harder in Plaintiff’s left side, which also 11 felt weaker than her right side. (Id.) 12 Plaintiff also suffered from loss of eyesight and intense headaches. Once or 13 twice a week, Plaintiff’s vision “g[ot] blurry” (Id. at 40), and her right eye went 14 “blank” for periods over thirty minutes. (Id; see also Id. at 42). Plaintiff 15 experienced headaches “half of the week,” which could “really hurt” and prevent 16 her from being able “to get around’ during the day. (Id. at 41). Plaintiff’s headaches 17 could affect her vision, too, and it normally took up to two hours for her to recover 18 from the pain and be able to “focus again” on what she was doing. (Id. at 42.) 19 Plaintiff also had urinary problems. At the hearing, Plaintiff testified that she 20 had “bladder issues.” (Id. at 40-41.) Due to these issues, Plaintiff experienced “little 21 accidents sometimes.” (Id.) These accidents occurred “almost daily.” (Id. at 46.) 22 Plaintiff usually wore liners to avoid further episodes of urinary incontinence. (Id.) 23 Finally, Plaintiff noted that she suffered from fatigue “practically every day.” 24 (Id. at 41-42.) Although Ocrevus’ infusions helped to ameliorate the fatigue, it 25 came and went. (See id. at 43.) Due to the fatigue, Plaintiff needed to take breaks 26 “basically like every day.” (Id.) She had to take breaks after doing the laundry or 27 even when taking a shower because she was not able to stand on her feet very 28 /// 1 much. (See id. at 43-44.) Plaintiff had to take about two or three one-hour breaks in 2 a day. (Id. at 44.) 3 4 D. Analysis 5 At the first step of the two-step evaluation, the ALJ found that Plaintiff’s 6 “medically determinable impairments could reasonably be expected to cause the 7 alleged symptoms.” (Id. at 23.) At the second step, however, the ALJ found that 8 Plaintiff’s “statements concerning the intensity, persistence and limiting effects of 9 these symptoms [were] not entirely consistent with the medical evidence and other 10 evidence in the record.” (Id.) As the ALJ found no evidence of malingering, he 11 was required to provide specific, clear and convincing reasons for rejecting 12 Plaintiff’s subjective symptom statements. See Garrison, 759 F.3d at 1014–15. 13 First, Plaintiff argues that the ALJ did not specifically identify the rejected 14 testimony. (Pl’s Br. 18.) Defendant responds that the ALJ did contemplate 15 Plaintiff’s account of her symptoms in its entirety, “and then pointed to specific 16 record evidence that contradicted those allegations.” (Def’s Br. 9.) The Court 17 agrees with Defendant. The ALJ decision did consider all Plaintiff’s symptoms 18 listed in the record, namely numbness, tingling, leg and back pain, headaches, 19 blurred vision, fatigue, and urinary incontinence. (See generally AR 22-24.) 20 Accordingly, the Court finds that, in assessing Plaintiff’s subjective symptoms, the 21 ALJ properly discharged its duty to “state specifically which symptom testimony is 22 not credible.” (Smolen, 80 F.3d at 1284.) 23 Second, Plaintiff contends that the ALJ “failed to articulate clear and 24 convincing reasons to reject Plaintiff’s symptoms testimony.” (Pl’s Br. 25 18). Defendant responds that the ALJ properly discounted Plaintiff’s symptom 26 testimony as inconsistent with: (1) Plaintiff’s own statements and activities of daily 27 living, and (2) objective medical evidence in the record (Def’s Br. 5, 8.) The Court 28 reviews each reason in turn. 1 1. Daily Activities 2 The ALJ noted that Plaintiff’s

daily activities included driving a car, 3 maintaining her personal care, going out alone, grocery shopping, making simple 4 meals, doing laundry, and socializing. (AR 25.) In the ALJ's view, all of these 5 activities were "consistent with basic work functions." (Id. at 24.) Accordingly, the 6 ALJ concluded that Plaintiff's activities, along with objective medical evidence in 7 the record, showed that Plaintiff was able to perform "medium work" despite her 8 limitations (Id.) 9 An ALJ may consider activities of daily living in evaluating the intensity, 10 persistence, and limiting effects of a claimant's symptoms. 20 C.F.R. §§ 11 404.1529(c)(3), 416.929(c)(3). "Inconsistencies between a claimant's testimony and 12 the claimant's reported activities provide a valid reason for an adverse credibility 13 determination." Burrell, 775 F.3d at 1137. However, "ALJs must be especially 14 cautious in concluding that daily activities are inconsistent with testimony about 15 pain, because impairments that would unquestionably preclude work and all the 16 pressures of a workplace environment will often be consistent with doing more than 17 merely resting in bed all day." Garrison, 759 F.3d at 1016 (finding that testimony 18 of talking on the phone, preparing meals daily, and occasionally cleaning one's 19 room were consistent with the pain claimant described in her testimony, and 20 therefore the ALJ erred in discounting her pain testimony as supposedly 21 inconsistent with her daily activities). 22 Here, Defendant contends that the ALJ "reasonably relied" on Plaintiff's 23 activities of daily living. (Def's Br. 8.) The Court disagrees on two grounds. 24 First, the ALJ did not consider the full extent of Plaintiff's testimony 25 regarding her daily activities, particularly her limitations in completing those 26 activities. (AR 24.) Instead, the ALJ limited himself to listing Plaintiff's activities 27 without addressing her limitations in completing those activities. See Robinson v. 28 Berryhill, No. ED CV 17-2238-PLA, 2018 U.S. Dist. LEXIS 133911, at *24 (C.D. 1 Cal. Aug. 8, 2018) (finding error where "ALJ merely recited plaintiff's activities 2 without taking into account her alleged limitations in completing those activities."). 3 As a starting point, the ALJ failed to address Plaintiff's driving limitations. 4 Although Plaintiff admitted to having a valid driver's license, she did not say she 5 was able to drive, nor did she ever assert that she actually drives. (See generally AR 6 41, 282.) When the ALJ specifically inquired about driving at the hearing, Plaintiff 7 clearly stated that she does not drive and that she usually asks for rides on the rare 8 occasions she goes out. (Id. at 41.) This statement is consistent with other relevant 9 evidence in the record. (See id. at 282; see also id. at 489 ("[H]er method of 10 transportation is being driven.")) 11 With respect to Plaintiff's ability to maintain personal care, the ALJ's 12 reasoning relied solely on Plaintiff's Functional Report, overlooking Plaintiff's 13 hearing testimony that she could not stand on her feet while taking a shower, which 14 was consistent with other evidence in the record. (Id. at 44; see also id. at 293 (Mr. 15 Peterson's Third-Party Report, noting Plaintiff's needs to sit down in the bathtub 16 while taking a shower and that it was difficult for her to wash her hair); see also id. 17 at 489 (Plaintiff's remarks that she showers only if she feels well "enough" and 18 dresses with assistance)). 19 The ALJ similarly overlooked Plaintiff's testimony regarding her ability to 20 go out and do grocery shopping (Id. at 25.) Plaintiff's testimony was that she went 21 out when

strictly necessary, for very short periods, and usually with assistance 22 because she was “not always” able to push the cart or lift certain things. (Id. at 42, 23 282.) Again, the record is fully consistent with these statements, lending credibility 24 to Plaintiff’s statements rather than belying them. (See id. at 293-294 (Mr. 25 Peterson’s statements that Plaintiff only went to the store with someone else to get 26 vital items like food and deodorant); see also id. at 489 (Plaintiff’s remarks that she 27 needed help grocery shopping and only “sometimes” went places by herself).) 28 /// 1

The ALJ also misconstrued Plaintiff’s testimony regarding cooking and 2 doing laundry. While the ALJ noted that Plaintiff was able to “make simple meals” 3 (id. at. 24), he did not consider Plaintiff’s testimony that she was unable to prepare 4 a “complete meal” and, as a result, her daily intake consisted solely of sandwiches, 5 frozen meals and “easy food.” (Id. at 281-282, 292, 489.) Likewise, in concluding 6 that Plaintiff’s symptoms conflicted with her ability to do laundry (id. at 25), the 7 ALJ did not consider Plaintiff’s testimony that such a conflict does not exist 8 because doing laundry does not require her to remain standing. (Id. at 282.) 9 Moreover, the Court sees no clear contradiction between Plaintiff’s ability to 10 complete basic household chores—such as preparing simple meals and doing 11 laundry—and the limiting effects of her symptoms. Ghanim, 763 F.3d at 1165. 12 Finally, the ALJ mischaracterized Plaintiff’s ability to “socializ[e] with 13 others.” (AR 25.) Plaintiff’s testimony evidences that her socialization was reduced 14 to a minimum, precisely because of her symptoms and associated limitations. Her 15 main interactions occurred on the phone, her relationships with her family were 16 “nonexistent” and she only visited friends in-person every couple month. (Id. at 17 282; 489.) 18 Because the ALJ mischaracterized Plaintiff’s level of daily activity, the 19 ALJ’s adverse credibility finding based on such characterization was erroneous. 20 (See *Rawa v. Colvin*, 672 Fed. Appx. 664, 666 (9th Cir. 2016) (finding that the ALJ 21 mischaracterized the plaintiff’s level of activity because he omitted “a number of 22 salient and dispositive facts and details,” and thus concluding that “[s]uch an 23 inaccurate representation of the record cannot constitute a specific, clear, and 24 convincing reason for rejecting [the plaintiff’s] testimony.”).) 25 Second, the ALJ erred in equating Plaintiff’s activities of daily life with an 26 ability to perform “basic work functions” (AR 24.) Here, the ALJ overlooked the 27 “critical differences” between activities of daily living and the demands of full-time 28 employment. See *Stassin v. Saul*, No. 5:19-CV-00930 (VEB), 2020 U.S. Dist. 1 LEXIS 216190, at *17 (C.D. Cal. Nov. 18, 2020) (citing *Garrison*, 759 F.3d at 2 1016). (“The critical differences between activities of daily living and activities in a 3 full-time job are that a person has more flexibility in scheduling the former than the 4 latter, can get help from other persons . . . , and is not held to a minimum standard of 5 performance, as she would be by an employer. The failure to recognize these 6 differences is a recurrent, and deplorable, feature of opinions by administrative law 7 judges in social security disability cases.”). Id. Rather than reflecting Plaintiff’s 8 ability to perform “basic work functions” (AR 24), Plaintiff’s testimony and other 9 evidence in the record shows that she does not “do much,” requiring up to three 10 one-hour breaks per day and being constantly subjected to repeated “accidents” 11 because of

urinary incontinence. (Id. at 41, 43-44, 46, 281, 290, 293, 492-493, 503). 12 For these reasons, the ALJ's rejection of Plaintiff's subjective symptom 13 testimony based on inconsistency with daily activities was not a clear and 14 convincing reason based on substantial evidence in the record. 15

16 2. Objective Medical Evidence 17 Plaintiff argues that the ALJ's analysis of objective medical evidence did not 18 account for the "periods of waxing and waning of symptoms . . . consistent with 19 relapsing multiple sclerosis." (Pl's Br. 19.) Defendant responds that the ALJ 20 properly discounted Plaintiff's subjective symptom testimony based on a lack of 21 objective medical evidence supporting the severity of Plaintiff's complaints. (Def's. 22 Br., 5-8.) Either way, the ALJ cannot reject Plaintiff's subjective symptom 23 statements solely based on a lack of objective medical evidence to corroborate 24 them. See, e.g., Bunnell, 947 F.2d at 345 ("[A]n adjudicator may not reject a 25 claimant's subjective complaints based solely on a lack of objective medical 26 evidence to fully corroborate the alleged severity of pain."); Robbins, 466 F.3d at 27 883 ("While an ALJ may find testimony not credible in part or in whole, he or she 28 may not disregard it solely because it is not substantiated affirmatively by objective 1 medical evidence."). Here, even assuming the record supports the ALJ's reasoning 2 regarding the lack of support from objective medical evidence, the ALJ did not 3 identify any other clear and convincing reason, supported by substantial evidence, 4 to discount Plaintiff's subjective symptom statements. Standing alone, the 5 purported lack of support from objective medical evidence is not a legally sufficient 6 reason to discount Plaintiff's symptom testimony. 7 8 * * * 9 In sum, the ALJ's decision does not provide clear and convincing reasons for 10 rejecting Plaintiff's subjective symptom allegations. This error is not harmless 11 because Plaintiff's credibility was not inconsequential to the ALJ's consideration of 12 Plaintiff's limitations. See *Molina v. Astrue*, 674 F.3d 1104, 1115 (9th Cir. 2012) 13 (explaining that "an ALJ's error is harmless where it is 'inconsequential to the 14 ultimate nondisability determination.'" (citing *Carmickle*, 466 F.3d at 885) 15 (additional citations omitted)). Accordingly, reversal is warranted. 16 17 E. Remand for Further Proceedings 18 The decision whether to remand for further proceedings or order an 19 immediate award of benefits is within the district court's discretion. See *Harman v. Apfel*, 211 F.3d 1172, 1178 (9th Cir. 2000). Where no useful purpose would be 21 served by further administrative proceedings, or where the record has been fully 22 developed, it is appropriate to exercise this discretion to direct an immediate award 23 of benefits. See *id.* at 1179 ("[T]he decision of whether to remand for further 24 proceedings turns upon the likely utility of such proceedings."). However, where, 25 as here, the circumstances of the case suggest that further administrative review 26 could remedy the Commissioner's errors, remand is appropriate. See *McLeod v. Astrue*, 640 F.3d 881, 888 (9th Cir. 2011). Specifically, remand is warranted here 28 for reconsideration of Plaintiff's symptom statements because the ALJ's failure to 1 || provide legally sufficient reasons for discounting such statements in the decision 2 || prevents this Court from meaningfully determining whether the decision is 3 || supported by substantial evidence. See *Treichler*, 775 F.3d at 1103 ("Because 'the 4 || agency's path' cannot 'reasonably be discerned,' we

must reverse the district 5 || court's decision to the extent it affirmed the ALJ's credibility determination." 6 || (citation omitted)). 7

8] V. ORDER

9 The Court ORDERS that judgment be entered reversing the decision of the 10 |} Commissioner and remanding this matter for further administrative proceedings. 11 12 IT IS SO ORDERED. 13 , 14 | DATED: August 4, 2025 gl 15 16 won teem. 17 18 19 20 21 22 23 24 25 26 27 28 16