UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Munguia v. Commissioner of Social Security

No. 24-cv-06297-NC (N.D. Cal. May 29, 2025) · No. 24-cv-06297-NC · Decided May 29, 2025

SUMMARY

The United States District Court for the Northern District of California reviewed an Administrative Law Judge's denial of Social Security disability benefits to S.M. The court held that the ALJ improperly evaluated medical opinions and evidence and failed to consider small fiber neuropathy at step three, including whether it met or equaled Listing 11.14. The court reversed the ALJ's decision and remanded for further consideration and proceedings rather than ordering an immediate award of benefits.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Nathanael M. Cousins
JURISDICTION	United States District Court for the Northern District of California
DECIDED	May 29, 2025
DOCKET	24-cv-06297-NC
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Claimant sought judicial review under 42 U.S.C. § 405(g) of the Commissioner's final decision denying Social Security disability benefits.
STANDARD OF REVIEW	The court reviews the Commissioner's decision for substantial evidence and legal error. An error is harmless if it is inconsequential to the ultimate nondisability determination or the agency's path can reasonably be discerned.
PRECEDENTIAL VALUE	Unpublished district-court order; precedential status unknown
PARTIES	S.M. v. Commissioner of Social Security

TOPICS

judicial review of agency action · administrative law · disability definition · remedies

PRACTICE AREAS

Social Security disability | administrative law | judicial review of agency action | disability benefits

QUESTIONS PRESENTED

1. Whether the ALJ legally erred by rejecting all medical opinions concerning S.M.'s physical impairments without adequately addressing their supportability, consistency, and evidentiary basis.
2. Whether the ALJ legally erred by failing to consider several medical opinions entirely.
3. Whether the ALJ legally erred by failing to consider S.M.'s small fiber neuropathy at later steps of the sequential evaluation, including Listing 11.14 at step three.
4. Whether the ALJ's errors were harmless.
5. Whether the case warranted remand for an immediate award of benefits rather than further administrative proceedings.

HOLDINGS

1. The ALJ erred by effectively assigning no weight to every medical opinion concerning S.M.'s physical impairments and by substituting his own interpretation of the medical evidence for competent medical opinions.
2. An ALJ errs by failing to address a medical opinion or by implicitly discounting it without explanation; the ALJ's failure to address opinions from Dr. Angeles, Dr. Olivares, and Dr. Carstens was not harmless.
3. The ALJ must explain how the supportability and consistency factors were considered when evaluating medical opinions, and the ALJ erred by failing to do so for certain opinions.
4. The ALJ may not cherry-pick favorable medical evidence while ignoring contrary evidence when determining a claimant's RFC.
5. Although the ALJ's failure to identify small fiber neuropathy as severe at step two was harmless because the claim proceeded beyond step two, the ALJ committed harmful error by failing to consider the impairment at later steps, including whether it met or equaled Listing 11.14.
6. The ALJ's errors were not harmless because the court could not meaningfully determine whether the conclusions were supported by substantial evidence without speculating or substituting its own findings.
7. The appropriate remedy was reversal and remand for further administrative proceedings, not an immediate award of benefits.

KEY QUOTATIONS

> *"By assigning no weight to any of the medical opinions concerning S.M.'s physical impairments, the ALJ effectively—and impermissibly—substituted his own interpretation of the medical evidence in place of the medical opinions when determining S.M.'s physical RFC."* (Discussion § III.A.1)

> *"The ALJ's failure to address the SFN was harmful error."* (Discussion § III.B)

> *"For the reasons above, the Court REVERSES the ALJ's decision and REMANDS the matter for further consideration and proceedings."* (Conclusion)

FACTUAL BACKGROUND

S.M. alleged disability beginning September 7, 2018, based in part on small fiber neuropathy, migraine headaches, spinal impairments, and mental impairments. The ALJ found severe lumbar degenerative disc disease, anxiety, obesity, and depressive disorders, but treated migraines as nonsevere and did not address small fiber neuropathy at step two or whether it met or equaled Listing 11.14 at step three. In determining the residual functional capacity, the ALJ rejected or failed to address multiple medical opinions and relied on selected later medical findings, including a 2023 MRI and records containing normal examinations, while not adequately considering contrary evidence.

PROCEDURAL HISTORY

S.M. originally sought Title XVI benefits for a period beginning October 1, 2014. After an initial denial, reconsideration, a 2021 unfavorable ALJ decision, a stipulated reversal and remand by the Eastern District of California, and an Appeals Council remand, S.M. amended the alleged onset date to September 7, 2018. Following a second hearing, the ALJ again denied benefits on June 20, 2024. The Northern District of California reversed and remanded for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The ALJ must reevaluate the medical opinions and medical evidence under the appropriate standards, consider S.M.'s small fiber neuropathy at the later stages of the sequential evaluation including Listing 11.14, reevaluate all steps of the five-step process concerning physical and mental impairments, and determine whether S.M. was disabled for any qualifying period since the alleged onset date.

CASES CITED

- Burch v. Barnhart, 400 F.3d 676, 679 (9th Cir. 2005)
- Bayliss v. Barnhart, 427 F.3d 1211, 1214 n.1 (9th Cir. 2005)
- Treichler v. Commissioner of Social Security Administration, 775 F.3d 1090, 1099 (9th Cir. 2014)
- Brown-Hunter v. Colvin, 806 F.3d 487, 492, 494 (9th Cir. 2015)
- Stout v. Commissioner, Social Security Administration, 454 F.3d 1050, 1054 (9th Cir. 2006)
- Andrews v. Shalala, 53 F.3d 1035, 1039–40 (9th Cir. 1995)
- Woods v. Kijakazi, 32 F.4th 785, 791–92 (9th Cir. 2022)
- Ounkham v. Commissioner of Social Security, No. 20-cv-01371-EPG, 2022 WL 705818, at *3 (E.D. Cal. Mar. 9, 2022)
- Tackett v. Apfel, 180 F.3d 1094, 1102–03 (9th Cir. 1999)

- Banks v. Barnhart, 434 F. Supp. 2d 800, 805 (C.D. Cal. 2006)
- Corvelo v. Kijakazi, No. 20-cv-01059-WHA, 2022 WL 1189885, at *5 (N.D. Cal. Apr. 21, 2022)
- Esparza v. O'Malley, No. 23-cv-1676, 2024 WL 1676280, at *6, *8
- Chavez v. Saul, No. 18-cv-1079-EFB, 2019 WL 4747698, at *4 (E.D. Cal. Sept. 30, 2019)
- Jones v. Colvin, No. 12-cv-999-PJW, 2013 WL 5492516, at *3 (C.D. Cal. Oct. 1, 2013)
- Garrison v. Colvin, 759 F.3d 995, 1010, 1012–13, 1019–20 (9th Cir. 2014)
- Brian T. v. Saul, No. 18-cv-02271-MAA, 2020 WL 470387, at *3 (C.D. Cal. Jan. 28, 2020)
- Hurn v. Saul, 798 F. App'x 976, 978 (9th Cir. 2019)
- Ford v. Saul, 950 F.3d 1141, 1156 (9th Cir. 2020)
- Connett v. Barnhart, 340 F.3d 871, 874 (9th Cir. 2003)
- Diedrich v. Berryhill, 874 F.3d 634, 641 (9th Cir. 2017)
- Kelly v. Berryhill, 732 F. App'x 558, 560–62 (9th Cir. 2018)
- Buck v. Berryhill, 869 F.3d 1040, 1048–49 (9th Cir. 2017)
- Young v. Sullivan, 911 F.2d 180, 184 (9th Cir. 1990)
- Marsh v. Colvin, 792 F.3d 1170, 1173 (9th Cir. 2015)
- Leon v. Berryhill, 880 F.3d 1041, 1045–46 (9th Cir. 2018)
- Luna v. Astrue, 623 F.3d 1032, 1035 (9th Cir. 2010)
- Barnhart v. Walton, 535 U.S. 212, 214 (2002)

OPINION

1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 NORTHERN DISTRICT OF CALIFORNIA 9 10 S.M., Case No. 24-cv-06297-NC 11 Plaintiff, ORDER REVERSING 12 v. ADMINISTRATIVE LAW JUDGE AND REMANDING FOR FURTHER 13 COMMISSIONER OF SOCIAL PROCEEDINGS SECURITY, 14 Re: ECF 15, 21, 22 Defendant. 15 16 Claimant S.M. appeals from an Administrative Law Judge’s denial of disability 17 benefits for the period beginning September 7, 2018.

S.M. argues the ALJ erred by failing 18 to find her small fiber neuropathy (SFN) and migraine headaches severe, improperly 19 rejecting S.M.’s testimony, and improperly weighing medical opinions and evaluating 20 medical evidence.

The Court agrees that the ALJ erred in weighing medical opinions and 21 evaluating medical evidence, including by failing to address certain medical opinions 22 entirely. The ALJ also erred by failing to consider S.M.’s SFN, particularly at step three of 23 the five-step sequential process.

Because these were not harmless and the matter would 24 benefit from corrected consideration by an ALJ, the Court REVERSES the ALJ’s decision 25 and REMANDS for further consideration and proceedings. 26 I. BACKGROUND 27 A. Procedural History 1 Title XVI for a period beginning October 1, 2014. AR 1899.

The claim was denied 2 initially and upon reconsideration. AR 1899. The ALJ held a hearing in February 2021 3 and issued an unfavorable decision on March 29, 2021. AR 1899. The United States 4 District Court for the Eastern District of California reversed and remanded the ALJ's 5 decision upon stipulation by the parties. AR 1899.

The Appeals Council then remanded 6 the case with instructions. AR 1899. S.M. amended the alleged disability onset date to 7 September 7, 2018. AR 1900. The ALJ held another hearing in December 2023 and 8 issued an unfavorable decision on June 20, 2024. AR 1900, 1919. 9 S.M. appealed the June 20, 2024, decision to the Court. ECF 1. S.M. filed a brief 10 in support of reversal and remand.

ECF 15 (Mot.). The Commissioner opposed, seeking 11 to affirm the ALJ's decision. ECF 21 (Opp'n). S.M. filed a reply in support of remand. 12 ECF 22 (Reply). All parties have consented to magistrate judge jurisdiction. ECF 6, 12. 13 B. ALJ Decision 14 In his June 20, 2024, decision, the ALJ followed the five-step sequential process 15 under 20 CFR § 404.1520(a) and § 416.920(a) to determine whether S.M. has been 16 disabled since September 7, 2018.

At step one, the ALJ concluded S.M. has not engaged 17 in substantial gainful activity since the amended alleged onset date of September 7, 2018. 18 AR 1902. At step two, the ALJ concluded S.M. has severe impairments including lumbar 19 degenerative disc disease, anxiety, obesity, and depressive disorders, and nonsevere 20 impairments including anemia and migraine headaches.

AR 1902–03. At step three, the 21 ALJ concluded that S.M.'s impairments, singly or in combination, did not meet or equal a 22 listed impairment, including for listings 1.15, 1.16, 12.04, and 12.06. AR 1903–06. Prior 23 to step four, the ALJ concluded that S.M. has a residual functional capacity (RFC) to 24 perform light work and can sit, stand, or walk up to six hours in an eight-hour workday, 25 but "is limited to understanding, remembering and carrying out simple, routine and 26 repetitive tasks." AR 1906–18.

At steps four and five, the ALJ concluded S.M. could not 27 perform any past relevant work but could perform other work available in significant 1 not disabled between September 7, 2018, and the date of his decision, June 20, 2024. AR 2 1919. 3 II. LEGAL STANDARD 4 A district court has the "power to enter, upon the pleadings and transcript of the 5 record, a judgment affirming, modifying, or reversing the decision of the Commissioner of 6 Social Security, with or without remanding the case for a rehearing." 42 U.S.C. § 405(g).

7 The decision of the Commissioner should only be disturbed if it is not supported by 8 substantial evidence or if it is based on legal error. Burch v. Barnhart, 400 F.3d 676, 679 9 (9th Cir. 2005). Substantial evidence is evidence that a reasonable mind would accept as 10 adequate to support the conclusion. Bayliss v. Barnhart, 427 F.3d 1211, 1214 n.1 (9th Cir.

11 2005) (“[It] is more than a mere scintilla but less than a preponderance”). Even when the 12 ALJ commits legal error, the decision must be upheld if the error is harmless. Treichler v. 13 Comm’r of Soc. Sec. Admin., 775 F.3d 1090, 1099 (9th Cir. 2014).

However, “[a] 14 reviewing court may not make independent findings based on the evidence before the ALJ 15 to conclude that the ALJ’s error was harmless.” Brown-Hunter v. Colvin, 806 F.3d 487, 16 492 (9th Cir. 2015) (citing Stout v. Comm’r, Soc. Sec. Admin., 454 F.3d 1050, 1054 (9th 17 Cir. 2006)). Where evidence is susceptible to more than one rational interpretation, the 18 ALJ’s decision should be upheld.

Andrews v. Shalala, 53 F.3d 1035, 1039–40 (9th Cir. 19 1995). 20 III. DISCUSSION 21 S.M. argues that the ALJ’s decision must be reversed for numerous reasons, each of 22 which fall into three main categories: (1) the ALJ erred by not finding S.M.’s SFN and 23 migraine headaches severe at step two; (2) the ALJ erred by not providing clear and 24 convincing reasons for rejecting S.M.’s testimony; and (3) the ALJ erred in weighing the 25 medical opinions and assessing the objective medical evidence.

The Court agrees that the 26 ALJ erred in weighing the medical opinions and his related assessment of the medical 27 evidence, and erred by failing to consider S.M.’s SFN after step two of the sequential 1 the parties’ remaining arguments as to whether the ALJ erred, which likewise relied on the 2 ALJ’s consideration of the medical opinions and evidence and will be addressed by the 3 ALJ’s renewed five-step sequential evaluation on remand.

4 A. The ALJ Harmfully Erred in Weighing the Medical Opinions 5 For claims filed after March 27, 2017, the ALJ must articulate how persuasive he 6 finds all the medical opinions in the record. 20 C.F.R § 404.1520c(b).

The ALJ must 7 explain how he considered the supportability and consistency of a medical opinion to 8 determine the persuasiveness of the opinion. 20 C.F.R § 404.1520c(b). “Supportability 9 means the extent to which a medical source supports the medical opinion by explaining the 10 ‘relevant... objective medical evidence.’” Woods v. Kijakazi, 32 F.4th 785, 791–92 (9th 11 Cir.

2022) (quoting 20 C.F.R § 404.1520c(c)(1)). “Consistency means the extent to which 12 a medical opinion is ‘consistent... with the evidence from other medical sources and 13 nonmedical sources in the claim.’” Id. at 792 (quoting 20 C.F.R § 404.1520c(c)(2)).

The 14 ALJ may consider other factors such as “the length and purpose of the treatment 15 relationship, the frequency of examinations, the kinds and extent of examinations that the 16 medical source has performed or ordered from specialists, and whether the medical source 17 has examined the claimant or merely reviewed the claimant’s records.” Id. (citing 20 18 C.F.R. § 404.1520c(c)(3)(i)–(v)).

19 Here, the ALJ erred in weighing the medical opinions, particularly when 20 determining S.M.'s RFC1, by (1) finding unpersuasive every medical opinion concerning 21 S.M.'s physical impairments; (2) failing to consider certain medical opinions; (3) failing to 22 address the consistency and supportability factors of some medical opinions; and (4) 23 rejecting medical opinions without providing explanations supported by substantial 24 1 A claimant's RFC is a determination of how much the claimant can still do in a work 25 setting despite physical and mental limitations.

20 C.F.R. § 404.1545(a)(1). An ALJ must consider all medical and nonmedical evidence, including descriptions and observations of 26 the claimant's limitations provided by the claimant, family, friends, and others. 20 C.F.R. §§ 404.1545(a)(3), (e); Laborin v. Berryhill, 867 F.3d 1151, 1153 (9th Cir. 2017).

The 27 ALJ must also consider the limiting effects of all impairments, including those that are not 1 evidence. 2 1. The ALJ Rejected all Medical Opinions Concerning S.M.'s Physical Impairments 3 4 In determining S.M.'s physical RFC, the ALJ considered the medical opinions of 5 PA-C Ahern, Dr. Sodhi, and state agency consultants Dr. Staley and Dr. Olivares.

The 6 ALJ found each opinion "not persuasive" or "unpersuasive." AR 1917–18. Rather than 7 assign these opinions little or some weight based on the factors in 20 C.F.R 8 § 404.1520c(c), the ALJ appears to have rejected them wholesale and assigned each 9 opinion no weight. See Ounkham v. Comm'r of Soc. Sec., No. 20-cv-01371-EPG, 2022 10 WL 705818, at *3 (E.D.

Cal. Mar. 9, 2022) ("True, the ALJ discounted all the opinions to 11 a degree, but this is different than not accepting the opinions at all."). In doing so, the ALJ 12 often cited to medical evidence in the record that he viewed as inconsistent with the 13 opinions, even concluding S.M.'s medical treatment "has been essentially routine or 14 conservative in nature" and "[a]s is clear from the above, the claimant recovered." AR 15 1915, 1917–18.

16 By assigning no weight to any of the medical opinions concerning S.M.'s physical 17 impairments, the ALJ effectively—and impermissibly—substituted his own interpretation 18 of the medical evidence in place of the medical opinions when determining S.M.'s 19 physical RFC. See Tackett v. Apfel, 180 F.3d 1094, 1102–03 (9th Cir. 1999); Banks v. 20 Barnhart, 434 F.Supp.2d 800, 805 (C.D.

Cal. 2006) (noting an ALJ "cannot arbitrarily 21 substitute his or her own judgment for competent medical opinion," and must not 22 "succumb to the temptation to play doctor and make [his or her] own independent medical 23 findings"); Corvelo v. Kijakazi, No. 20-cv-01059-WHA, 2022 WL 1189885, at *5 (N.D. 24 Cal. Apr. 21, 2022) ("[B]ecause the ALJ rejected every medical opinion regarding mental 25 impairments he erroneously based his conclusion on claimant's

mental limitations solely 26 on his own lay interpretation of the raw medical evidence contained in claimant's 27 treatment records.").

The ALJ therefore erred. See Esparza v. O'Malley, No. 23-cv- 1 in his treatment of the medical opinions" where he found every medical opinion 2 unpersuasive); Chavez v. Saul, No. 18-cv-1079-EFB, 2019 WL 4747698, at *4 (E.D. Cal. 3 Sept. 30, 2019) ("More troubling is the ALJ's wholesale rejection of the medical opinion 4 evidence."); Jones v. Colvin, No. 12-cv-999-PJW, 2013 WL 5492516, at *3 (C.D.

Cal. 5 Oct. 1, 2013) ("[T]he ALJ's decision was not based on any of the current medical opinions 6 in the record. Even the Agency doctors who reviewed the records determined that Plaintiff 7 was restricted to sedentary work. Unhappy with those findings, the ALJ simply rejected 8 them... [to reach] his preordained conclusion that Plaintiff was capable of performing 9 light work.").

10 2. The ALJ Failed to Consider all Medical Opinions 11 The Commissioner concedes that the ALJ failed to address three medical opinions 12 in the record—from Dr. Angeles, Dr. Olivares, and Dr. Carstens—but argues any error in 13 doing so was harmless. 14 "Where an ALJ does not explicitly reject a medical opinion or set forth specific, 15 legitimate reasons for crediting one medical opinion over another, he errs. [citation 16 omitted].

In other words, an ALJ errs when he rejects a medical opinion or assigns it little 17 weight while doing nothing more than ignoring it...." Garrison, 759 F.3d at 1012–13. 18 "[A]n ALJ cannot 'implicitly' discount a competent medical opinion that conflicts with the 19 ALJ's RFC determination" without explanation. Brian T. v. Saul, No. 18-cv-02271-MAA, 20 2020 WL 470387, at *3 (C.D.

Cal. Jan. 28, 2020). 21 Dr. Angeles completed an In-Home Supportive Services (IHSS) form in March 22 2020 attesting that S.M.'s functional limitations met the conditions for in-home assistance. 23 AR 1587–88. The Commissioner argues that the ALJ's failure to address the form was 24 harmless because the form was comparable to one completed by Dr. Sodhi that the ALJ 25 already found unpersuasive, the form did not outline specific functional limitations, and 26 the form was an unsupported check-box form.

Opp'n 16–17. The Court is not persuaded. 27 An ALJ errs where he fails "to recognize that the opinions expressed in check-box 1 numerous records, and were therefore entitled to weight that an otherwise unsupported and 2 unexplained check-box form would not merit." Garrison, 759 F.3d at 1013.

Here, the 3 ALJ did not consider whether, even if not explicitly identified in the form, Dr. Angeles and 4 Dr. Sodhi's opinions were supported by their relationships with S.M. and related records. 5 The administrative record indicates that Dr. Sodhi, for example, was S.M.'s primary care 6 physician for multiple years and saw S.M. at least fifteen times between 2020 and 2023.

7 The Commissioner also relies on Hurn v. Saul, where the Ninth Circuit found an 8 ALJ's error in failing to evaluate a doctor's 2012 report was harmless because the report 9 was "substantially the same" as that doctor's 2014 report, which the ALJ considered and 10 rejected. 798 F. App'x 976, 978 (9th Cir. 2019); Opp'n 17.

The same is not true here, 11 where the two forms were completed by two different doctors, two years apart, in reliance 12 on different patient evaluations, and do not include identical descriptions of S.M.'s 13 functional limitations. Compare AR 1588 (Angeles form identifying S.M.'s spine surgery 14 and mobility limitations) with AR 2536 (Sodhi form identifying "anxiety/depression" and 15 "low back pain").

Although both IHSS forms only indicate generally S.M.'s inability to 16 perform one or more activities of daily living, see Opp'n 17 (citing Ford v. Saul, 950 F.3d 17 1141, 1156 (9th Cir. 2020) (finding ALJ did not err by rejecting doctor's opinion that 18 failed to specify functional limitations)), the Court cannot conclude the ALJ's error in 19 failing to consider the Angeles IHSS form was harmless where the ALJ did not consider 20 the evidence underlying the forms and consideration of the form would have spoken to the 21 consistency factor in weighing both IHSS forms.

22 The Commissioner likewise argues that the ALJ's failure to address the opinions of 23 Dr. Olivares and Dr. Carstens constituted harmless error. As to Dr. Olivares' opinion, the 24 Commissioner proffers that the opinion was the same as that of Dr. Staley, which the ALJ 25 appropriately considered. Opp'n 18.

However, Dr. Staley's opinion concludes S.M. has 26 an RFC of light work, whereas Dr. Olivares' opinion concludes S.M. has an RFC of 27 sedentary work and was based on a review of additional medical evidence. AR 66–79, 96– 1 to properly evaluate Dr. Staley's medical opinion, so Dr. Olivares' opinion could not 2 harmlessly be discounted on the same grounds. 3 As to Dr. Carstens' opinion, the Commissioner argues consideration of the opinion 4 would not have impacted the ALJ's disability determination because it was based on a 5 review of Dr. Morgan's opinion, which the ALJ evaluated and rejected.

Opp'n 20. But 6 Dr. Carsten and Dr. Morgan's opinions relied on the same objective medical evidence— 7 Dr. Morgan's exam of and tests conducted with S.M.—and reached two different 8 conclusions. See AR 1451–72, 1472–73.

Although Dr. Carsten opined that some of 9 S.M.'s limitations were not as marked as Dr. Morgan found, Dr. Carsten also opined that 10 S.M.'s psychological impairments could be expected to last longer than Dr. Morgan found. 11 AR 1473.

The ALJ is responsible for resolving conflicts in medical testimony and, by 12 ignoring Dr. Carsten's opinion, did not do so here. See Garrison, 759 F.3d at 1010. The 13 Court may not

consider reasons for rejecting Dr. Carsten's opinion argued by the 14 Commissioner but not given by the ALJ. See Connett v. Barnhart, 340 F.3d 871, 874 (9th 15 Cir. 2003) ("We are constrained to review the reasons the ALJ asserts.").

16 3. The ALJ Failed to Address the Supportability and Consistency of Medical Opinions 17 18 In addition to failing to address some medical opinions entirely, the ALJ erred by 19 failing to explain how he considered the supportability and consistency factors for certain 20 opinions when deciding how much weight to assign them. See Woods, 32 F.4th at 792. 21 Specifically, the ALJ did not assess the supportability of either PA-C Ahern or Dr. Staley's 22 opinions, referring only to the opinions' consistency with the overall record.

AR 1917–18. 23 The failure to do so likely had a particular impact on the weighing of PA-C Ahern's 24 opinion because she examined S.M. over the course of regular visits from 2018–2020, the 25 records for which would indicate the supportability or lack thereof of her opinion. Cf. 26 Woods, 32 F.4th at 792 (noting the ALJ may still consider the length of a treatment 27 relationship and frequency of examinations when weighing medical opinions).

1 certain medical opinions only addressed medical evidence from later in the alleged 2 disability period. Namely, the ALJ found Dr. Morgan's opinion inconsistent with 3 "[t]reatment notes from 2021 to present" even though his opinion was from June 2019, and 4 Dr. Staley's opinion inconsistent with "numerous observations" and "minimal findings on 5 the August 2023 MRI" even though his opinion was from November 2019.

AR 1917–18. 6 The ALJ also found PA-C Ahern's opinion from May 2019 inconsistent with S.M.'s "most 7 recent MRI" from 2023 and "numerous observations" from February 2021 to October 8 2023, despite conceding "treatment notes following [S.M.'s] surgery in 2019 indicate" 9 functional limitations. AR 1917. An individual is disabled if they are unable to "to engage 10 in any substantial gainful activity by reason of any medically determinable physical or 11 mental impairment which can be expected to result in death or which has lasted... not 12 less than 12 months." Barnhart v. Walton, 535 U.S. 212, 214 (2002) (citation omitted).

13 The ALJ's consideration of the consistency factor for Dr. Morgan, Dr. Staley, and PA-C 14 Ahern's opinions was thus incomplete and unsupported by substantial evidence where he 15 did not consider the opinions' consistency with the medical evidence at the time the 16 opinions were made and throughout the alleged period of disability. 17 4.

The ALJ's Rejection of Medical Opinions Was Not Supported by Substantial Evidence 18 19 Finally, there is not substantial evidence to support the ALJ's full rejection of 20 certain medical opinions. The Court highlights the ALJ's treatment of PA-C Ahern's 21 medical opinion as an example. 22 The ALJ rejects PA-C Ahern's medical opinion as "not persuasive and not 23 supported by the medical evidence" because S.M.'s "most recent MRI indicated only mild 24

findings, and there are numerous observations of normal strength, range of motion, and 25 normal gait which are not consistent with Ms. Ahern's opinion." AR 1917.

Ahern's 26 opinion addresses strength ("muscle weakness"), range of motion ("limited ability to bend 27 over or twist back"), and gait ("slight limp," "uses cane to walk"), and notes that S.M. is 1 durations, and difficulty with transportation. AR 1203–05. 2 The medical evidence the ALJ cites to as inconsistent with Ahern's opinion does 3 not provide substantial evidence for entirely discrediting the opinion.

Some of the records 4 the ALJ cites to that document S.M.'s normal gait were from telehealth appointments and 5 noted "Exam Limited." AR 2173, 2180, 2186. Other records that documented normal gait 6 and no use of an assistive device nonetheless noted abnormal range of motion in the 7 thoracolumbar spine, abnormal sensation in dermatomes, and bilateral facet tenderness on 8 exam.

See, e.g., 2193–94, 2200, 2203–05, 2210–11, 2214–15, 2219. In rejecting Ahern's 9 opinion, the ALJ also cited to records from doctor's visits and emergency room trips for 10 entirely unrelated ailments and functional limitations, including anemia and related blood 11 transfusions, abdominal pain, and even gynecological care. See, e.g., AR 2345, 2372, 12 2395, 2454, 2468, 2524, 2833, 2856; see Diedrich v. Berryhill, 874 F.3d 634, 641 (9th Cir.

13 2017). On the other hand, the ALJ does not address the multiple spinal injections or 14 medical branch blocks S.M. received between and after her two spinal surgeries to try to 15 address her back pain. See, e.g., AR 1212, 1284, 2174, 2194, 2196, 2211, 2232, 2313. 16 The ALJ also relies on the "mild findings" of S.M.'s August 2023 MRI, but does not 17 appear to consider S.M.'s January 2019, August 2020, or December 2020 MRIs or January 18 or December 2020 x-rays, which included findings of "broad-based disc bulge displacing 19 the left L5 nerve root," "a pinched nerve," "moderate foraminal stenosis," "[m]ild to 20 moderate lateral recess and neural foramen stenosis," and "[m]ild degenerative disease." 21 E.g., AR 1191, 1749, 1891, 1893, 1495, 2888.

22 An ALJ may not "cherry-pick[] the record, ignoring medical evidence that does not 23 support his conclusion." P.E. v. Saul, 445 F. Supp.3d 306, 335 (N.D. Cal. 2020); Ghanim 24 v. Colvin, 763 F.3d 1154, 1164 (9th Cir. 2014). Particularly when determining a 25 claimant's RFC, the ALJ must consider "all the relevant medical and other evidence in 26 [the] case record." 20 C.F.R. § 416.920(e).

Because the "records cited do not clearly or 27 obviously support the ALJ's conclusion" to reject entirely Ahern's medical opinion, the 1 1676280, at *6 (finding ALJ's rejection of medical opinion " inadequate because the ALJ 2 fails to explain how the cited portions of the record," including mild MRI findings, were 3 inconsistent with the opinion's functional limitations); Kelly v.

Berryhill, 732 F. App’x 4 558, 560–62 (reversing ALJ’s rejection of medical opinions where the entire record belied 5 ALJ’s conclusion that claimant’s pain was well controlled with medication and where the 6 ALJ cherry-picked several normal findings from an MRI while ignoring abnormal 7 findings).

8 5. The ALJ’s Errors Were Not Harmless 9 An error by the ALJ is harmless, and must be upheld by the district court, if “it is 10 inconsequential to the ultimate nondisability determination” or “the agency’s path may 11 reasonably be discerned, even if the agency explains its decision with less than ideal 12 clarity.” Brown-Hunter, 806 F.3d at 492. Where an ALJ does not provide reasoning for 13 their decision, “such error will usually not be harmless” because a court cannot 14 “meaningfully determine whether the ALJ’s conclusions were supported by substantial 15 evidence” without impermissibly engaging in speculation or substituting its own 16 conclusions.

Id. at 492, 494. 17 Taken altogether, the Court cannot conclude that the ALJ’s errors in weighing the 18 medical opinions amounted to harmless error, particularly where the ALJ was silent as to 19 the weight and supportability of multiple opinions. See id. at 494 (finding harmful error 20 where the ALJ “summarized a significant portion of the administrative record in support of 21 her RFC determination” but failed to tie the evidence to her reasoning for rejecting 22 testimony); Esparza, 2024 WL 1676280, at *6 (“The ALJ did not adequately support or 23 explain how the medical evidence contradicts Dr. Hseih’s medical opinion, therefore, the 24 court finds the ALJ committed harmful error.”).

25 B. The ALJ Harmfully Erred by Failing to Consider S.M.’s SFN 26 The Commissioner concedes that the ALJ did not “specifically find at step two that” 27 S.M.’s SFN “was a severe or nonsevere impairment,” but again argues the failure to do so 1 determination. Opp’n 3–4.

The Court finds the ALJ’s failure to consider the SFN at step 2 two was not harmful error, but cannot conclude the failure to consider the SFN at later 3 steps was similarly harmless. 4 The Court agrees with the Commissioner that the ALJ’s failure to consider the 5 SFN at step two was not harmful error because step two “ is merely a threshold 6 determination meant to screen out weak claims” and “is not meant to identify the 7 impairments that should be taken into account when determining the RFC.” See Opp’n 4; 8 Buck v. Berryhill, 869 F.3d 1040, 1048–49 (9th Cir.

2017). Because the ALJ concluded 9 S.M. had severe impairments, the ALJ continued to step three of the sequential evaluation 10 instead of disposing of S.M.’s claim. Step two was thus decided in S.M.’s favor and she 11 was not prejudiced by the ALJ’s failure to consider her SFN at that stage. See id. at 1049. 12 But the Court cannot say the same for the ALJ’s failure to consider whether S.M.

13 met listing 11.14 for peripheral neuropathy at step three. At step three, an ALJ must again 14 “consider the medical severity” of a claimant’s impairments to determine whether one or 15 more

impairment “meets or equals” a listing for the required duration, resulting in a 16 finding of disability. 20 C.F.R. § 404.1520(a)(4)(iii). By failing to consider or address the 17 SFN, the ALJ failed to consider whether S.M.’s impairments met or equaled listing 11.14.

18 The Commissioner argues any failure to do so was harmless because the record shows 19 S.M. would not meet listing 11.14. But the ALJ did not conclude as much; the Court 20 cannot find an ALJ’s decision at step three supported by substantial evidence based on 21 reasoning the ALJ never gave, just as it cannot substitute its, or the Commissioner’s, 22 conclusions for those of the ALJ on review.

See Connett, 340 F.3d at 874; Young v. 23 Sullivan, 911 F.2d 180, 184 (9th Cir. 1990). Because “the decision on disability rests with 24 the ALJ and the Commissioner of the Social Security Administration in the first instance, 25 not with a district court,” the Court declines to conduct an initial determination of whether 26 S.M. would meet listing 11.14. See Marsh v. Colvin, 792 F.3d 1170, 1173 (9th Cir.

2015). 27 The ALJ’s failure to address the SFN was harmful error. 1 C. The Court Remands for Further Consideration and Proceedings 2 S.M. urges the Court to reverse and remand for an immediate award of benefits, 3 arguing it is clear from the record that S.M. is disabled. Mot. 27. 4 “Usually, ‘[i]f additional proceedings can remedy defects in the original 5 administrative proceeding, a social security case should be remanded.’” Garrison, 759 6 F.3d at 1019 (citation omitted).

Courts have discretion to remand for the immediate award 7 of benefits if “(1) the record has been fully developed and further administrative 8 proceedings would serve no useful purpose; (2) the ALJ has failed to provide legally 9 sufficient reasons for rejecting evidence, whether claimant testimony or medical opinion; 10 and (3) if the improperly discredited evidence were credited as true, the ALJ would be 11 required to find the claimant disabled on remand.” Id. at 1020.

12 The Court does not find that this is the exceptional case where remand for the 13 immediate award of benefits is appropriate. See Leon v. Berryhill. 880 F.3d 1041, 1045 14 (9th Cir. 2017). Rather, this matter would benefit from further consideration by the ALJ 15 through application of the appropriate standards, particularly where it is not clear whether 16 S.M. would meet a listing at step three based on her SFN, or whether the ALJ’s emphasis 17 on later medical evidence indicates S.M. was at one time disabled but is no longer.

See id. 18 at 1045–46; Luna v. Astrue, 623 F.3d 1032, 1035 (9th Cir. 2010); Esparza, 2024 WL 19 1676280, at *8 (“The ALJ’s error here was harmful because the opinion of Drs. Hseih and 20 Anderson, as well as plaintiff’s pain testimony, properly considered, may very well result 21 in a more restrictive residual functional capacity assessment, which may in turn alter the 22 finding of non-disability.”).

23 Although the Court focused its discussion of the ALJ's weighing of the medical 24 opinions and evaluation of the medical evidence on the RFC determination, on remand the 25 ALJ should reevaluate all steps of the sequential process to assess S.M.'s physical and 26 mental impairments.

The Court therefore does not reach the parties' remaining arguments, 27 including whether the ALJ erred in failing to find S.M.'s headaches severe and in rejecting 1 || assessment of the medical evidence and opinions.

On remand, the ALJ also must consider 2 || whether S.M. was disabled for any qualifying period since the alleged onset of disability. 3 || IV. CONCLUSION 4 For the reasons above, the Court REVERSES the ALJ's decision and REMANDS 5 || the matter for further consideration and proceedings. 6 IT IS SO ORDERED. 7 8 Dated: May 29, 2025 he_——— _ NATHANAEL M. COUSINS 9 United States Magistrate Judge 10 11 12 13 14 15 16 © 17 1g zZ 19 20 21 22 23 24 25 26 27 28