

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

Zackery Angel R. v. Commissioner of Social Security

No. 1:24-cv-00509-AKB-REP, United States District Court for the District of Idaho (March 6, 2026)

SUMMARY

This Report and Recommendation addresses a challenge to the Social Security Administration’s denial of Supplemental Security Income benefits. The court recommends granting the complaint and remanding for further proceedings because the ALJ recognized both a 10 percent off-task limitation and an expectation of some absences but did not present a combined hypothetical to the vocational expert. The recommendation declines to resolve the plaintiff’s remaining challenge to the evaluation of a medical opinion.

CASE DETAILS

COURT	United States District Court for the District of Idaho
WRITING FOR THE COURT	Raymond E. Patricco
JURISDICTION	United States District Court for the District of Idaho
DECIDED	March 6, 2026
DOCKET	1:24-cv-00509-AKB-REP
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Report and Recommendation on judicial review of the Commissioner of Social Security's denial of Supplemental Security Income benefits under 42 U.S.C. §§ 405(g) and 1383(c)(3).
STANDARD OF REVIEW	The Commissioner's decision must be supported by substantial evidence and based on proper legal standards. Factual findings supported by substantial evidence are conclusive, even where conflicting evidence exists; the court reviews the record as a whole, may not substitute its judgment for the ALJ's rational interpretation, and reverses for legal error.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Zackery Angel R. v. Commissioner of Social Security

TOPICS

- judicial review of agency action
- administrative law
- exhaustion of remedies
- remedies
- civil procedure

PRACTICE AREAS

Social Security disability

administrative law

federal civil procedure

QUESTIONS PRESENTED

1. Whether the ALJ's Step Five determination was supported by substantial evidence when the ALJ recognized both a 10 percent off-task limitation and some expected absences but did not present the vocational expert with a combined hypothetical.
2. Whether the case should be remanded for further proceedings or for an immediate award of benefits.

HOLDINGS

1. When an ALJ recognizes both off-task behavior and some degree of absenteeism, but presents the vocational expert with only separate hypotheticals rather than a hypothetical combining those limitations, the record may be insufficient to support the Step Five finding because the vocational effect of the combined limitations remains unresolved.
2. Remand for further administrative proceedings, rather than an immediate award of benefits, was appropriate because the record left unresolved whether a quantifiable absenteeism limitation was supported and whether its combination with the off-task limitation would preclude competitive employment.

KEY QUOTATIONS

“The claimant is reasonably expected to be off task 10 percent of the workday on an unscheduled basis in addition to regularly scheduled work breaks.” (AR 19)

“there is a reasonable expectation that [he] would miss some days of work” (AR 24)

“A remand for an award of benefits is appropriate when no useful purpose would be served by further administrative proceedings, namely when the record has been fully developed and the evidence is insufficient to support the Commissioner’s decision.” (Report and Recommendation, section III.B)

FACTUAL BACKGROUND

Plaintiff alleged disability based primarily on seizure-related symptoms, anxiety, depression, and posttraumatic stress disorder. The ALJ found those impairments severe and assessed an RFC including a 10 percent off-task limitation, while also acknowledging a reasonable expectation that Plaintiff would miss some workdays. The vocational expert separately testified about tolerances for off-task behavior and absenteeism, but the ALJ did not present a hypothetical combining both limitations before finding that Plaintiff could perform jobs including hand packager, dishwasher, and cleaner II.

PROCEDURAL HISTORY

Plaintiff applied for Supplemental Security Income in 2018. After an initial denial, reconsideration denial, an administrative hearing, and an unfavorable ALJ decision, the Appeals Council vacated and remanded for correction of Step Five deficiencies. Following a second hearing, ALJ Luke Brennan again denied benefits on

September 7, 2023, and the Appeals Council denied review on September 9, 2024. Plaintiff then sought district-court review, and the magistrate judge recommended reversal and remand for further administrative proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for clarification of the RFC, resolution of whether a quantifiable absenteeism limitation is supported, and presentation of a complete hypothetical to a vocational expert that addresses the combined effect of any absenteeism limitation and the 10 percent off-task restriction. The ALJ may also reconsider the evidentiary basis for the off-task limitation and related issues as necessary.

CASES CITED

- Trevizo v. Berryhill, 871 F.3d 664 (9th Cir.)
- Treichler v. Comm’r of Soc. Sec. Admin., 775 F.3d 1090, 1098-1100 (9th Cir.)
- Richardson v. Perales, 402 U.S. 389, 401 (1971)
- Ludwig v. Astrue, 681 F.3d 1047, 1051 (9th Cir.)
- Pierce v. Underwood, 487 U.S. 552, 565 (1988)
- Trevizo v. Berryhill, 871 F.3d 664, 674 (9th Cir.)
- Batson v. Comm’r of Soc. Sec., 359 F.3d 1190, 1196 (9th Cir.)
- Zavalin v. Colvin, 778 F.3d 842, 845 (9th Cir.)
- Vernoff v. Astrue, 568 F.3d 1102, 1105 (9th Cir.)
- Smith v. Heckler, 820 F.2d 1093, 1094 (9th Cir.)
- Garrison v. Colvin, 759 F.3d 995, 1011 (9th Cir.)
- Bray v. Comm’r of Soc. Sec. Admin., 554 F.3d 1219, 1228 (9th Cir.)
- Hill v. Astrue, 698 F.3d 1153, 1162 (9th Cir.)
- Leach v. Kijakazi, 70 F.4th 1251, 1254-55 (9th Cir.)
- Dennis H. v. Kijakazi, 2022 WL 1844112, at *4 (E.D. Wash.)
- Michael S. v. Soc. Sec. Admin., 2023 WL 5934598, at *3 (D. Or.)
- Hiler v. Astrue, 687 F.3d 1208, 1212 (9th Cir.)
- Augustine ex rel. Ramirez v. Astrue, 536 F. Supp. 2d 1147, 1153 n.7 (C.D. Cal.)