

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA, SAN JOSE DIVISION

Siming Li v. Leland Dudek

Li v. Dudek, Case No. 5:24-cv-02501-EJD (N.D. Cal. Apr. 28, 2025) · No. 5:24-cv-02501-EJD · Decided April
28, 2025

OPINION

Li v. Colvin

PER CURIAM.

1 2

3 UNITED STATES DISTRICT COURT

4 NORTHERN DISTRICT OF CALIFORNIA

5 SAN JOSE DIVISION

6 7 SIMING LI, Case No. 5:24-cv-02501-EJD 8 Plaintiff, ORDER ON MOTIONS FOR
SUMMARY JUDGMENT

9 v. 10 LELAND DUDEK, Re: Dkt. Nos. 14, 18 Defendants. 11 12 Plaintiff Siming Li (“Li”) appeals the Commissioner of Social Security’s¹ final decision 13 determining that Li is no longer disabled and therefore ineligible for continuing disability benefits 14 under Title XVI of the Social Security Act. Mot. for Summ. J. (“MSJ”), ECF No. 14; Cross-MSJ, 15 ECF No. 18; Opp’n to Cross-MSJ, ECF No. 21. 16 Having considered the parties’ motions and the record in this matter, the Court GRANTS 17 Li’s motion for summary judgment and DENIES the Commissioner’s cross-motion for summary 18 judgment. Accordingly, the Court REVERSES the Commissioner’s final decision and 19 REMANDS for calculation and award of benefits.

20 I. BACKGROUND

21 A. Medical History 22 Li is a 43-year-old woman who suffers from several mental health conditions. Tr. of 23 Admin. Record (“AR”), ECF No. 8. Li first sought treatment in 2005 for suicidal ideation 24 stemming from her being sexually abused as a child. Li received multiple medical diagnoses 25 including adjustment disorder with depressed mood, recurrent major depression, PTSD, and 26 27 1 The Current Commissioner, Leland Dudek, is automatically substituted as Defendant in place of his predecessor. Fed R. Civ. P. 25(d). 1 psychosis with visual hallucinations, and her physician prescribed medication. AR 735, 744, 746, 2 1108, 1109. Li sought treatment again in 2007 for suicidal ideation, insomnia, depression, and 3 distractibility, and was again diagnosed with major depressive disorder and PTSD and prescribed 4 medication. Id. at 753, 787, 780. 1110, 1111, 1118, 1121, 1122. During the years following, Li 5 sought additional treatment from several mental health care providers who also diagnosed her with 6 the conditions described above, as well as bipolar II disorder, ADHD, a reading disorder, and 7 disorder of written expression. Id. at 1131, 1138, 1139, 1142, 1149, 1151, 1152, 1153, 1155, 8

1160. Li also had psychiatric hospitalizations in 2019 and 2022, one of which resulted in a three- 9 day 5150 hold after Li was seen “was seen screaming, chasing down bystanders, knocking at 10 people’s doors, and [] punching and hitting her head against the wall.” Id. at 1783, 1795, 1931, 11 1932, 2111. 12 B. Procedural History 13 Li filed for Title XVI Social Security Income (“SSI”) and was found disabled in a 14 Comparison Point Decision (“CPD”) dated March 28, 2008. Id. at 127, 128. Li underwent a 15 Continuing Disability Review (“CDR”), and in November 2018, Social Security determined that 16 Li’s disability had ceased due to medical improvement. Id. at 218. 17 Li appeared at a hearing before Administrative Law Judge (“ALJ”) David LaBarre on July 18 16, 2021. Id. at 351. The ALJ issued an unfavorable decision on August 30, 2021. Id. at 144. Li 19 requested the Appeals Council review the ALJ’s decision. The Appeals Council vacated the 20 decision and remanded Li’s case for another hearing because the ALJ applied the post-2017 rules 21 to his analysis in error. Id. at 165. Li appeared before the ALJ again in May 2023, and on August 22 30, 2023, the ALJ again issued an unfavorable decision. Id. at 14, 461. The ALJ decided that Li’s 23 disability ended on November 1, 2018, often repeating four justifications for his finding—Li had 24 medically improved on medication, held various part-time jobs, could raise her two children, and 25 reported her ability to work and function normally in several medical records from 2022. 26 Li commenced this action for judicial review pursuant to 42 U.S.C. § 405(g). 27

II. LEGAL STANDARD

1 Courts review an ALJ’s decision to deny Social Security benefits for substantial evidence. 2 *Glandon v. Kijakazi*, 86 F.4th 838, 843 (9th Cir. 2023). There is substantial evidence when there 3 is “more than a mere scintilla, but less than a preponderance” of evidence. *Lingenfelter v. Astrue*, 4 504 F.3d 1028, 1035 (9th Cir. 2007). Put differently, substantial evidence is “such relevant 5 evidence [that] a reasonable person might accept as adequate to support a conclusion.” Id. If an 6 ALJ’s decision is not supported by substantial evidence, courts will reverse. *Glandon*, 86 F.4th at 7 843. Courts also review an ALJ’s decision for legal error. Id. If the decision contains a legal 8 error, courts will reverse that decision unless the legal error was harmless. *Stout v. Comm’r, Soc. 9 Sec. Admin.*, 454 F.3d 1050, 1054 (9th Cir. 2006). An error is harmless only when it is 10 “inconsequential to the ultimate nondisability determination” or when “the agency’s path [to its 11 conclusion] may be reasonably discerned” despite the error. *Brown-Hunter v. Colvin*, 806 F.3d 12 487, 494 (9th Cir. 2015) (citations omitted). 13

III. DISCUSSION

14 Li claims that the ALJ erred in his decision to deny her benefits by: (1) failing to find Li’s 15 diagnosed dyslexia and ADHD severe impairments; (2) rejecting the opinions of Li’s treating and 16 examining sources without specific and legitimate reasons; (3) failing to provide clear and 17 convincing reasons for rejecting the testimony of Li and Jie Ou Yang, her partner and the father of 18 her children²; (4) finding that Li had medically improved; (5) relying on an Residual Functional 19 Capacity (“RFC”) that is not supported by substantial evidence; and (6) relying on

Vocational 20 Expert (“VE”) testimony based on an incomplete hypothetical to find Li not disabled. The Court 21 addresses each alleged error in turn. 22 A. Severity of Mental Impairments 23 A severe impairment is any medically determinable impairment that (1) lasts or is expected 24 to last for a continuous period of at least twelve months, and (2) has more than a minimal effect on 25 26 27 2 Jie Ou Yang is referred to in the ALJ’s decision as “Mr. Ouyang,” and sometimes referred to as Li’s “husband” or “friend.” 1 an individual’s ability to perform basic work activities. 20 C.F.R. §§ 416.909, 416.921. The 2 inquiry at this stage is “a de minimis screening device to dispose of groundless claims.” Smolen, 3 80 F.3d at 1290 (citing *Bowen v. Yuckert*, 482 U.S. 137, 153–54 (1987)). 4 Here, the ALJ found that Li’s “impairments of PTSD, bipolar disorder, unspecified 5 depressive disorder vs. major depressive disorder, and major depressive disorder (recurrent, severe 6 with psychotic features) in partial remission cause more than minimal limitation in the claimant’s 7 ability to perform basic work activities.” AR 21. However, the ALJ found “insufficient evidence 8 in the treatment record to establish [Li’s anxiety, dyslexia, and ADHD] as severe medically 9 determinable impairments since the cessation date.” *Id.* Regardless, the ALJ considered “all 10 reported mental health symptoms and findings . . . as part of the claimant’s PTSD, bipolar 11 disorder, and/or depressive disorder.” *Id.* 12 The Court finds that, although the ALJ failed to explain which evidence regarding Li’s 13 anxiety, dyslexia, and ADHD he disregarded and why, any error here is harmless. When an ALJ 14 has identified severe impairments, but could have identified additional severe impairments, the 15 omission is generally immaterial if the judge considers the limitations from those impairments 16 throughout the remainder of the analysis. *Lewis v. Astrue*, 498 F.3d 909, 911 (9th Cir. 2007). 17 Though the ALJ here did not find Li’s anxiety, dyslexia, and ADHD severe impairments, his 18 analysis ultimately did not discount the limitations from these impairments on this basis.³ 19 Therefore, reversal is not warranted on this ground. 20 B. Medical Opinions 21 Under the applicable regulations, courts weigh medical opinions based on the extent of the 22 doctor’s relationship with the claimant. *Woods v. Kijakazi*, 32 F.4th 785, 789 (9th Cir. 2022). 23 These relationships are categorized in “a three-tiered hierarchy.” *Id.* (citing *Smith v. Kijakazi*, 14 24 F.4th 1108, 1114 (9th Cir. 2021)). At the top are treating physicians—or medical sources who 25 treat or evaluate the claimant and have an ongoing treatment relationship with her. See 20 C.F.R. 26 27 3 The ALJ discounted medical opinions and Li’s testimony regarding symptoms of these impairments for other reasons which the Court will discuss below. 1 § 404.1527(a)(2); *Benton ex rel. Benton v. Barnhart*, 331 F.3d 1030, 1036–38 (9th Cir. 2003). A 2 treating physician’s opinion is entitled to “substantial weight,” and courts generally give it “more 3 weight . . . than . . . the opinion of doctors who do not treat the claimant.” *Woods*, 32 F.4th at 789 4 (cleaned up). In the middle tier are doctors who examine the claimant but do not have an ongoing 5 relationship with her. *Id.* (“The opinion of an examining physician is . . . entitled to greater weight 6 than the opinion of a nonexamining physician.”). To reject either a treating or an examining 7 physician’s opinion, an ALJ must provide “clear and convincing reasons” if the opinion is 8 uncontradicted by other evidence, or “specific and

legitimate reasons” otherwise, and the reasons 9 must be supported by substantial evidence. *Id.* (quoting *Revels v. Berryhill*, 874 F.3d 648, 654 10 (9th Cir. 2017)). The lowest-weighted tier comprises “physicians who only review the record.” 11 *Id.* (quotations omitted). “The opinion of a nonexamining physician cannot by itself constitute 12 substantial evidence that justifies the rejection of the opinion of either an examining physician or a 13 treating physician.” *Id.* (quotations omitted). 14 Li claims the ALJ failed to provide legally sufficient reasons for assigning certain weight 15 to the opinions of the following medical providers: (1) treating therapist Michelle Gayle, AMFT; 16 (2) examining physicians Dr. Paul Martin and Dr. Maria Kerosky⁴; (3) examining physician Dr. 17 Jacklyn Chandler; and (4) medical expert Dr. Mary Buban.⁵ 18 1. Michelle Gayle, AMFT 19 Michelle Gayle is Li’s treating therapist who had been meeting with Li almost weekly 20 since October 31, 2018. Ms. Gayle provided a Mental Residual Functional Capacity Report in

21 December 2018. AR 971. There, she noted that Li relied on Mr. Yang to remind her of 22 appointments, appeared tired, did not sleep well, had flashbacks based on trauma, and suffered 23 24 4 Li groups Dr. Martin and Dr. Kerosky’s opinions when challenging the ALJ’s discussion of them. 25 5 Li also argues in this section that the ALJ cited instances of “normal” mental status exams without contextualizing them against a record full of abnormal mental status examinations, mental 26 health diagnoses, and involuntary psychiatric hospitalizations. However, Li does not cite to the normal mental status exams she references, instead citing generally to three pages of the ALJ’s 27 decision. The Court assumes Li references the reports throughout 2022 noting Li’s ability to work and function normally and will examine these records in its analysis below. 1 from low self-esteem, distrust, depression, nightmares, loss of appetite, low energy, and 2 anhedonia. *Id.* at 975, 976, 977, 978. She also noted that Li had been trying to attend community 3 college for 7–8 years but still had no degree, suffered from dyslexia and difficulties focusing and 4 learning, was frequently late to work due to lack of motivation, and was not able to be direct with 5 difficult communications. *Id.* at 976, 978. Ms. Gayle provided an updated letter summarizing 6 Li’s treatment in June 2020 and noted that she continued to suffer nightmares, flashbacks, 7 depression, insomnia, anxiety, and a lack of motivation and focus. *Id.* at 1018. Ms. Gayle also 8 provided a more detailed Mental Impairments Questionnaire in December 2020. *Id.* at 1754–59. 9 She similarly reported that Li had marked limitations in the ability to handle conflicts with others; 10 state her own point of view; respond to requests, suggestions, criticisms, corrections, and 11 challenges; set realistic goals; and maintain personal hygiene and attire appropriate for a work 12 setting. *Id.* She also noted that Li had extreme limitation in the ability to keep social interactions 13 free of excessive irritability, sensitivity, argumentativeness, or suspiciousness; would miss more 14 than four days of work per month due in part to lack of childcare; and would remain off task more 15 than 30% of the time. *Id.* Ms. Gayle found Li had marginal adjustment even with medication and 16 therapy and concluded that Li was unable to work full-time due to lack of sleep, inability to take 17 medications, and intense PTSD flashbacks. *Id.* at 1758, 1759. 18 The

ALJ gave “little weight” to Ms. Gayle’s opinion, finding it “heavily based” on Li’s 19 subjective reports and “inconsistent with the treatment records showing significant improvement 20 of mental health symptoms with medication compliance, the ability to raise two small children 21 with little assistance from the claimant’s partner, the ability to perform multiple part-time jobs, 22 and the claimant’s 2022 reports that she was able to work and function properly without 23 difficulty.” *Id.* at 25. 24 Though, as the Commissioner highlights, Ms. Gayle may not be qualified as an acceptable 25 medical source,⁶ the ALJ is nevertheless required to support his conclusions with clearly 26 27 6 The Commissioner raises this argument, but the ALJ did not assign weight based on this fact. 1 articulated reasoning and an accurate characterization of the record. 20 C.F.R. § 416.927(f)(1) 2 (“[I]t may be appropriate to give more weight to the opinion of a medical source who is not an 3 acceptable medical source if he or she has seen the individual more often than the treating source, 4 has provided better supporting evidence and a better explanation for the opinion, and the opinion 5 is more consistent with the evidence as a whole.”). The ALJ’s reasonings fall short of meeting 6 this standard for several reasons. 7 First, the fact that Ms. Gayle’s opinion may be based heavily on Li’s subjective reports is 8 not a reason on its own to discredit her opinion, as it is inescapable that psychiatric conditions 9 “will always depend in part on the patient’s self-report.” *Buck v. Berryhill*, 869 F.3d 1040, 1049 10 (9th Cir. 2017). While the ALJ is permitted to reject opinions premised largely on the claimant’s 11 own accounts, he may do so only when those complaints have been properly discounted. *Morgan 12 v. Comm’r Soc. Sec. Admin.*, 169 F.3d 595, 602 (9th Cir. 1999). However, the ALJ did not 13 identify which, if any, subjective reports underlying Ms. Gayle’s opinions he discounted here and 14 why. Likewise, it appears the ALJ also did not consider the continuous relationship Ms. Gayle 15 had with Li and the consistency of Li’s reports across the years of consistent treatment. 16 Second, the ALJ did not explain why the ability to raise her own children is inconsistent 17 with Ms. Gayle’s opinion that Li suffered from symptoms that would impact her ability to work, 18 such as a lack of sleep and PTSD flashbacks.⁷ As the Ninth Circuit has long held, “claimants 19 should not be penalized for attempting to lead normal lives in the face of their limitations.” *Smith 20 v. Saul*, 820 F. App’x 582, 585 (9th Cir. 2020) (internal quotation marks omitted) (quoting 21 *Reddick v. Chater*, 157 F.3d 715, 722 (9th Cir. 1998)): 22 [M]any home activities are not easily transferable to what may be the more grueling environment of the workplace—particularly for 23 claimants suffering from mental illness, who may be able to limit environmental stressors, and thus experience improved functioning, 24 at home in a way that is impracticable at work. That [the claimant] was able on occasion to perform household chores, feed her animals, 25 leave her home, shop for groceries, and visit family members does not 26 27 7 The Commissioner references this ability as merely “show[ing] some intact abilities in the basic areas of mental functioning.” Cross-MSJ 16. in any way detract from her credibility as to her overall disability. 1 *Id.* (cleaned up) (internal quotation marks and citations omitted). So too here, when properly 2 contextualized, Li’s ability to care for her own children is not inconsistent with Ms. Gayle’s 3 opinion regarding Li’s symptoms and

limitations. 4 Third, while the ALJ cites to records noting Li's ability to work and function properly 5 without difficulties in 2022, the ALJ neglects to contextualize these records with the evidence that 6 Li was hospitalized for three days on a 5150 hold in May 2022—the same month the records note 7 her ability to work and function properly without difficulties—after she “was seen screaming, 8 chasing down bystanders, knocking at people's doors, and began punching and hitting her head 9 against the wall.” AR 1931, 1932.8 In other words, the ALJ failed to contextualize the medical 10 records “in the broader context of [the claimant's] impairment.” *Attmore v. Colvin*, 827 F.3d 872, 11 877 (9th Cir. 2016) (citations omitted). 12 Fourth, the ALJ's characterization of Li as having a “demonstrated ability to perform 13 multiple part-time jobs” is not supported by substantial evidence. For example, at the time of the 14 first hearing, Li had been working as a delivery driver for UberEats and an “in-home healthcare 15 worker” for her mother-in-law. Though Li completed approximately fifteen hours of work per 16 week with UberEats, she testified that Mr. Yang was “always” with her while she worked because 17 she became too nervous or depressed to perform the job. After Mr. Yang would finish his own 18 full-time job, he would accompany Li on her shift and drive the car, operate the GPS, drop off the 19 food, and sometimes pick up the food from the restaurants. AR 45–47, 57. While the ALJ noted 20 Li's testimony that “she requires assistance from her partner,” this level of assistance contradicts 21 the ALJ's finding regarding Li's ability to work. *Id.* at 22. Regarding being an “in-home 22 healthcare worker,” Li testified that she gets paid by Mr. Yang's father (who Li refers to as her 23 “father-in-law”) to help Mr. Yang's mother (who Li refers to as her “mother-in-law”) for about 24 twenty hours per week with cleaning some dishes, brushing or cleaning her hair, and taking her out 25 26 8 The ALJ noted this evidence once in his analysis, stating only that “[t]he claimant had a 27 psychiatric hospitalization in May 2022 but the treatment record does not show episodes of decompensation of extended duration since the cessation date.” AR 25. 1 shopping. Even with these tasks, Li gets support from Mr. Yang, who drives them to go shopping. 2 As for the other work experience in the record, Li worked one day at a special education 3 kindergarten in January 2023 before being fired because she could not work full-time, with Li 4 reporting her employer saying that she “was not ready to do the job.” Li also worked for a few 5 months at a daycare seven years ago prior to the birth of her daughter, but she reports being unable 6 to work with children in that capacity now because the birth of her daughter has caused her to 7 relive the trauma she experienced as a young girl and experience an increase in PTSD flashbacks. 8 Considering the record in this context, this work history does not provide substantial evidence to 9 support the ALJ's finding that Li has a “demonstrated ability to perform multiple part-time jobs.” 10 Finally, the ALJ failed to explain how Ms. Gayle's opinion is inconsistent with the 11 treatment records showing some improvement with medication. In the Ninth Circuit, 12 “[i]mpairments that can be controlled effectively with medication are not disabling for the 13 purposes of determining eligibility for SSI benefits.” *Warre v. Comm'r*, 439 F.3d 1001, 1006 (9th 14 Cir. 2006). However, the improvements while medicated must also show a return to a level of

15 function required to work. See *Wellington v. Berryhill*, 878 F.3d 867, 876 (9th Cir. 2017). 16 Further, “cycles of improvement and debilitating symptoms are a common occurrence” for 17 individuals with mental health disorders, and “it is an error to pick out a few isolated instances of 18 improvement . . . and to treat them as a basis for concluding a claimant is capable of working.” 19 *Garrison*, 759 F.3d at 1017. A claimant “does not need to be utterly incapacitated in order to be 20 disabled,” and symptoms may wax and wane, with greater functionality at times and worse at 21 others. *Vertigan v. Halter*, 260 F.3d 1044, 1050 (9th Cir. 2001). 22 Here, while the evidence shows that psychiatric medications such as Effexor, Zoloft, 23 Wellbutrin, Lexapro, Abilify, Depakote, Ritalin, Lamictal and Risperidone have reduced the 24 severity of her symptoms, even while medicated, the record contains evidence from sources other 25 than Ms. Gayle showing Li reported frequent depression, paranoia, mood instability, and suicidal 26 ideation to various providers and was still unable to sleep through the night due to nightmares. 27 See, e.g., AR 222, 783, 787, 859, 1030, 1155, 1322, 1552, 1575, 1576, 1754, 1755, 1758, 1759, 1 1959, 1960, 1968, 2076, 2110, 2111, 2113, 2142, 2143, 2144. The ALJ erred by isolating areas of 2 improvement outside the context of this record and using them to assign lesser weight to Ms. 3 Gayle’s opinion. The Court also notes that, even if medication caused the level of improvement 4 the ALJ suggests, the ALJ failed to grapple with the evidence showing consistent issues with Li’s 5 ability to take her medication as prescribed. 6 For these reasons, the Court finds that the ALJ’s stated justifications for assigning “little 7 weight” to Ms. Gayle’s opinion are not supported by substantial evidence. 8 2. Dr. Paul Martin and Dr. Maria Kerosky 9 Dr. Paul Martin and Dr. Maria Kerosky are Social Security consultative examiners who 10 examined Li in 2018 and 2019 respectively and found that Li had “marked” and “moderate to 11 marked” mental functional limitations. *Id.* at 23, 24, 861. Dr. Martin concluded that Li suffered 12 from cognitive and memory impairment and was markedly impaired at performing work activities 13 on a consistent basis and maintaining regular attendance in the workplace. *Id.* at 860, 861. Dr. 14 Kerosky also noted that Li’s work manner was impulsive, and she gave up on tasks she found 15 difficult, leading to marked impairments in adapting to changes or stressors in the workplace. *Id.* 16 at 1006, 1008, 1011. 17 The ALJ gave “little weight” to Dr. Martin’s opinion as “inconsistent with the progress 18 notes from Pathways to Wellness, illustrating significant improvement of mental health symptoms 19 when the claimant is compliant with medication, as well as the claimant’s ability to concurrently 20 perform multiple part-time jobs while raising a newborn and infant.” *Id.* at 24. The ALJ then 21 cited medical records from May, June, August–November 2022 noting Li’s ability to work and 22 function properly without difficulty. *Id.* The ALJ further disagreed with Dr. Martin’s ultimate 23 conclusion, citing to his other “clinic observations showing generally normal mental status 24 findings.” *Id.* 25 The ALJ also gave “partial weight” to Dr. Kerosky’s opinion because “the conclusions are 26 generally consistent with the underlying treatment record,” but the ALJ did “not agree with any 27 marked mental limitations,” finding that conclusion is “inconsistent with the progress notes from 1 Pathways to Wellness, illustrating significant

improvement of mental health symptoms when the 2 claimant is complaint with medication, as well as the claimant's ability to concurrently perform 3 multiple part-time jobs while raising a newborn and infant." Id. The ALJ again cited the same 4 medical records from 2022 noting Li's ability able to work and function properly without 5 difficulty. Id. 6 The Court finds that the ALJ's decision to give little or partial weight to these opinions is 7 not supported by substantial evidence. Again here, the ALJ failed to tie Li's ability to raise her 8 own children to her ability to withstand the stress of a workday or ability to interact with others on 9 a regular basis. The Court repeats, "claimants should not be penalized for attempting to lead 10 normal lives in the face of their limitations." Smith, 820 F. App'x at 585. Further, while the ALJ 11 cited to records noting Li's ability to work and function properly without difficulties in 2022, Li 12 was also hospitalized for three days on a 5150 hold the same month the records note her ability to 13 work and function properly without difficulty. Finally, as the Court noted above, though there is 14 evidence that Li's symptoms improved on medication, there is also substantial evidence that Li 15 still experienced considerable symptoms while medicated and difficulties taking her medication as 16 prescribed. 17 Accordingly, here too, the ALJ's justifications for assigning little or partial weight to the 18 opinions of Dr. Martin and Dr. Kerosky are not supported by substantial evidence. 19 3. Dr. Jacklyn Chandler 20 Dr. Chandler is another Social Security consultative examiner who examined Li in

21 September 2022. The ALJ noted Dr. Chandler's finding that Li "had no limitation in the ability to

22 understand and remember simple instructions, carry out simple instructions, and make judgments 23 on simple work-related decisions"; "had mild to moderate limitation in the ability to make 24 judgments on complex work-related decisions, as well as the ability to respond appropriately to 25 usual work situations and to changes in a routine work setting"; and "had moderate limitation in 26 the ability to interact appropriately with the public, supervisors, and coworkers." AR 26. 27 The ALJ assigned "great weight" to this opinion, finding that "it is consistent with the 1 underlying record, which shows improvement of the claimant's mental health symptoms when the 2 claimant was complaint with medication, the ability to care for two small children, and the ability 3 to perform multiple part-time jobs." Id. 4 The Court finds substantial evidence supports the ALJ's finding that Dr. Chandler's opinion 5 is consistent with the underlying record showing some improvement of symptoms while compliant 6 with medication; however, for all the reasons discussed above, Li's ability to care for her children, 7 history of part-time work, and some improvements on medication are insufficient circumstances to 8 measure the consistency Dr. Chandler's opinion. Further, the Court finds the ALJ erred by omitting 9 from his analysis Li's testimony regarding the nature of her visit with Dr. Chandler. Li testified 10 that Dr. Chandler rushed the appointment because she had another upcoming appointment and 11 asked only simple questions like what medication she was on and her symptoms before rushing her 12 out. Li was not asked about her day-to-day and felt she was not able to explain her mental health

13 history or symptoms. *Id.* at 66. The ALJ did not acknowledge this testimony, instead noting that 14 Li's counsel "complained that she was not allowed into the examination room and that the claimant 15 reported that the examination was cursory." *Id.* at 26. The ALJ concluded that counsel's 16 "comments do not change the fact that Dr. Chandler's limitations are consistent with the overall 17 record." *Id.* Though the statement from Li's counsel regarding Li's visit contains some similar 18 information, Li's detailed firsthand testimony provided important context that the ALJ failed to 19 consider when evaluating the weight of Dr. Chandler's opinion. 20 4. Dr. Mary Buban 21 Dr. Mary Buban is the medical expert who testified at Li's 2021 hearing. The ALJ noted 22 Dr. Buban's finding that Li had "mild to moderate limitation in the four basic areas of mental 23 functioning." *Id.* at 26. 24 The ALJ found this opinion "persuasive" because "[i]t is supported by the expert's 25 reference to the medical record showing improvement of the claimant's mental health symptoms 26 when the claimant was complaint with medication," and it is "consistent with the overall record, 27 showing the ability to care for two small children, the ability to perform multiple part-time jobs, 1 and the claimant's 2022 reports that she was able to work and function properly without 2 difficulty." *Id.* 3 As an initial matter, the Court observes that the ALJ failed to assign the proper assessment 4 "weight" per the controlling regulations, instead classifying Dr. Buban's opinion as "persuasive." 5 20 C.F.R. § 416.927(c). Though unclear, this language suggests that the ALJ assigned the greatest 6 weight to Dr. Buban's expert opinion, which should fall on the lowest tier of the regulation's 7 hierarchy below those of the examining and treating physicians. Regardless, again here, the ALJ 8 failed to draw the connection between Li's ability to care for her children and her ability to endure 9 work, failed to accurately describe the evidence of Li's work history, and failed to put the reports 10 of normal functioning throughout 2022 into context with Li's hospitalization and other reports of 11 continued symptoms. Therefore, the Court finds the ALJ's justifications for finding Dr. Buban's 12 opinion "persuasive" are inadequate here as well. 13 C. Subjective Testimony and Statement 14 Li claims the ALJ also failed to sufficiently explain his decision to discount Li's subjective 15 testimony, as well as the statement submitted by Mr. Yang. 16 1. Claimant's Testimony 17 In dealing with a claimant's subjective testimony, when a claimant has medically 18 supported impairments that could cause his symptoms, the ALJ must provide "specific, clear, and 19 convincing reasons" for "reject[ing] the claimant's testimony about the severity of those 20 symptoms." *Ferguson v. O'Malley*, 95 F.4th 1194, 1197–98 (9th Cir. 2024) (quoting *Brown-Hunter*, 806 F.3d at 488–89). This requires the ALJ to "show [her] work" by providing an 22 explanation "clear enough that it has the power to convince." *Smartt v. Kijakazi*, 53 F.4th 489, 23 499 (9th Cir. 2022). 24 In *Brown-Hunter*, the ALJ made the conclusory declaration that "the claimant's statements 25 concerning the intensity, persistence and limiting effects of these symptoms are not credible to the 26 extent they are inconsistent with the above residual functional capacity assessment." *Id.* at 493. 27 Then, the ALJ merely summarized the medical evidence before paraphrasing her earlier 1 conclusion, stating again that "the functional limitations from the claimant's impairments were 2 less serious than she has alleged." *Id.* The

Ninth Circuit held that the ALJ's explanation failed to satisfy the specific, clear, and convincing standard because it did not specifically identify portions of the claimant's testimony that were allegedly inconsistent with the record, and the explanation did no more than summarize the medical evidence. *Id.* at 494. Although a court might have been able to draw reasonable inferences from the summarized evidence, the Ninth Circuit explained that doing so results in the court improperly making credibility determinations in place of the ALJ. *Id.* 8 (citing *Connett v. Barnhart*, 340 F.3d 871, 874 (9th Cir. 2003)). Rather than allowing a court to infer the ALJ's reasoning, the specific, clear, and convincing standard requires the ALJ to do the work of laying out her reasoning by linking specific testimony to specific evidence undermining that testimony. *Id.* The purpose is to allow courts to review the ALJ's actual reasoning instead of speculating on what that reasoning may have been. *Id.* 13 Here, the ALJ began his analysis by stating the following: 14 After considering the evidence of record, the undersigned finds that the claimant's current medically determinable impairment could reasonably be expected to produce the alleged symptoms; however, the claimant's and her friend's statements concerning the intensity, persistence and limiting effects of these symptoms are not entirely consistent with the objective medical and other evidence for the reasons explained in this decision. Accordingly, these statements have been found to affect the claimant's ability to work only to the extent they can reasonably be accepted as consistent with the objective medical and other evidence. 19 AR 22. He then proceeded to summarize Li's medical records. Like the ALJ in *Brown-Hunter*, 20 the ALJ here did not tie specific evidence to specific testimony. Rather, the ALJ simply 21 concluded that the alleged "intensity, persistence and limiting effects of these symptoms are not 22 entirely consistent with the objective medical and other evidence." *Id.* 23 Because the ALJ failed to identify what testimony was problematic and why, remand is 24 required on this basis. 25 26 27 9 The ALJ presumably refers to Mr. Yang here, which the Court will examine in the section below.

2. Source Statement from Jie Ou Yang

1 The Ninth Circuit has explained that ALJs "must consider lay witness testimony 2 concerning a claimant's ability to work." *Stout*, 454 F.3d at 1053. Lay testimony "as to a 3 claimant's symptoms or how an impairment affects ability to work is competent evidence . . . and 4 therefore cannot be disregarded without comment." *Id.* (quotations omitted) (emphasis in 5 original). Consequently, "[i]f the ALJ wishes to discount the testimony of lay witnesses, he must 6 give reasons that are germane to each witness." *Id.* (citations omitted). 7 Again here, in the same paragraph quote above, the ALJ initially provided no explanation 8 for why he would not consider Mr. Yang's statement. At one point, however, the ALJ explicitly 9 discounted Mr. Yang's statement as to Li's physical limitations and limited lifting and walking 10 tolerance because it directly contradicted evidence from Li's physicals and her testimony 11 regarding her exercise practice. AR 22. The ALJ's finding that this statement contradicts the 12 record is supported by a clear justification and substantial evidence; however, the ALJ still erred 13 by failing to provide any reason to reject the

remainder of Mr. Yang's statement. 14 D. Finding Petitioner Medically Improved 15 Li also asserts the ALJ's finding at step two that Li medically improved is not supported 16 by substantial evidence. 17 At step two, an ALJ must determine whether a claimant has experienced medical 18 improvement. 20 C.F.R. § 416.994(b). Medical improvement "is determined by a comparison of 19 prior and current medical evidence which must show that there have been changes (improvement) 20 in the symptoms, signs or laboratory findings associated with that impairment(s)." 20 C.F.R. § 21 416.994(c)(1). If there has been no improvement, the claimant remains disabled and benefits 22 continue. 20 C.F.R. § 416.994(b). Evidence of improvement must be examined "in the broader 23 context of [the claimant's] impairment." *Attmore*, 827 F.3d at 877 (citations omitted). 24 Here, the ALJ determined that medical improvement occurred on November 1, 2018. In so 25 finding, the ALJ noted that the "[t]reatment notes show that mental impairments are well- 26 controlled with medication." AR 20. 27 1 While the evidence supports the ALJ's conclusion that Li had shown some improvements 2 in her symptoms while medicated, the ALJ was required to examine this evidence in the broader 3 context of Li's impairments, which as discussed in detail above, shows that even when properly 4 medicated, Li still experienced symptoms including recurring and intrusive thoughts, 5 hallucinations, nightmares, hypervigilance, avoidant behaviors, depression, low energy, social 6 withdrawal, crying, anhedonia, poor sleep, irritation, poor frustration tolerance, problems with 7 memory and concentration, feelings of hopelessness, and suicidal ideation. The evidence also 8 shows a cycle of difficulty taking her medication followed by psychiatric hospitalizations. 9 The ALJ again here failed to examine Li's improvement in this broader context, and his 10 finding of medical improvement is not supported by substantial evidence. 11 E. Residual Functional Capacity 12 Li further argues that the ALJ's RFC assessment is not supported by substantial evidence 13 for the same reasons discussed above. Because the ALJ provided legally insufficient reasons for 14 discounting certain medical and lay testimony and proceeded to formulate an RFC based on his 15 conclusions with respect to those opinions, the Court finds that the ALJ's RFC, in turn, is not 16 supported by substantial evidence. 17 F. Vocational Expert Testimony 18 Finally, Li argues that the ALJ erred by relying on vocational expert testimony based on 19 incomplete hypotheticals. The Court agrees. Because the ALJ improperly discounted certain 20 medical opinions and testimony, his resulting RFC finding did not account for all of Li's 21 limitations. It follows, then, that the hypothetical posed to the vocational expert did not properly 22 encompass all of Li's limitations. 23 G. Remedy 24 When the ALJ's decision is premised on legal error or unsupported by substantial 25 evidence, the Court has the discretion to remand for award of benefits or further administrative 26 proceedings. 42 U.S.C. § 405(g); *Benecke v. Barnhart*, 379 F.3d 587, 593 (9th Cir. 2004); see 27 *Garrison*, 759 F.3d at 1020–21. Courts remand with instructions to calculate and award benefits 1 when: "(1) the record has been fully developed and further administrative proceedings would 2 serve no useful purpose; (2) the ALJ has failed to provide legally sufficient reasons for rejecting 3 evidence . . . ; and (3) if the improperly discredited evidence were credited

as true, the ALJ would be required to find the claimant disabled on remand.” Garrison , 759 F.3d at 1020. The plaintiff also must show that “an evaluation of the record as a whole [does not] create[] serious doubt that a claimant is, in fact, disabled.” Id. at 1021. Here, the Court finds remand with instructions to calculate and award benefits appropriate. First, the record is fully developed. The ALJ has conducted two separate hearings two years apart because of the Appeals Council’s first remand. Second, the ALJ’s rejection of medical source opinions and Li’s testimony was legally insufficient for the reasons discussed above. Most notably, the ALJ repeatedly rejected or gave little weight to evidence that he found conflicted with Li’s ability to care for her own children, her work history, evidence of some improvement while medicated, and notes in Li’s medical history indicating normal functioning. However, Li’s ability to raise her own children does not conflict with her abilities to maintain employment, her work history is slim and has been heavily accommodated by Mr. Yang, substantial evidence does not show that Li’s symptoms improved on medication to the level required to work, and her medical history must be evaluated as a whole, which reveals that Li had a psychiatric hospitalization the same month that her records noted normal functioning. Third, the ALJ would be required to find Li disabled on remand if the improperly discredited evidence were credited as true, and the record as a whole does not cast serious doubt upon Li’s allegations of disability. Substantial evidence shows continued disability since 2018— specifically, continued symptoms consistent with diagnoses of anxiety, depression, PTSD, ADHD, and dyslexia, as well as marked impairments identified by multiple medical professionals. To illustrate this point, the Court will briefly summarize some of the relevant record. In October 2018, Dr. Martin diagnosed Li with major depressive disorder and PTSD with symptoms including recurring and intrusive thoughts, nightmares, hypervigilance, avoidant behaviors, depression, low energy, social withdrawal, crying, anhedonia, poor sleep, irritation, poor frustration tolerance, problems with memory and concentration, feelings of hopelessness, suicidal ideation. AR 859–60. He concluded that Li was markedly impaired in multiple work-related functional categories. Id. at 975. Li was medicated with Effexor and Lamictal at this time. Soon after, Li began treatment at Pathways to Wellness in November 2018, where Dr. Versales continued to prescribe Effexor and Dr. Woldu monitored her symptoms. Id. at 1022, 1766. In September 2019, Dr. Kerosky diagnosed Li with PTSD and unspecified depressive disorder v. major depressive disorder with symptoms including difficulty with sleep, stress, leaving the house, focusing, feeling unsafe, low energy, flashbacks, nightmares, suicidal thoughts, auditory hallucinations, and restlessness. Id. at 1005–10. Dr. Kerosky concluded that Li suffered marked impairment in a number of work-related functional categories, observing in Li’s mental status exam that Li did not know the current president and suffered mildly impaired comprehension, borderline intellectual functioning, and extremely low immediate memory and fund of knowledge. Id. Li was medicated with Effexor at this time. In January 2020, Li gave birth to her first son, stopped taking Effexor, and began Zoloft to breastfeed. Id. at 1084. Mr. Yang had to extend his FMLA

leave because Li struggled to care for 16 their son with her residual depressive and PTSD symptoms, including poor sleep, anxiety, 17 hypervigilance, nightmares, hallucinations, and the feeling that her mother was watching her and 18 somehow knew how she was feeling. Id. at 1069, 1071, 1073, 1074, 1075, 1076, 1080, 1081. Li 19 gave birth to her daughter in May 2021 and experienced increased psychiatric symptoms of 20 anxiety and worry as she feared the social and physical abuse she suffered would happen to her 21 daughter. Id. at 2159. Dr. Woldu concluded that Li suffered from marked restriction in her 22 activities of daily living and marked episodes of decompensation and increased symptoms. Id. 23 2158, 2159. 24 In September 2021, Li reported guilt, low energy, and sadness with the triggering event 25 being possibly seeing her sister and abusive mother. Id. at 2146. PA Pearson observed a flat and 26 blunted affect, depressed and irritable mood, hyperactive, restless, and agitated behavior, loss of 27 interest, impaired short-term memory, distracted attention, auditory and visual hallucinations, and 1 blocked thought process. Id. at 2147, 2148, 2151, 2152. Li saw her mother a few months later 2 and her symptoms spiked, reporting increased sadness, decreased interest, increased feelings of 3 guilt, decreased energy, decreased concentration, psychomotor agitation, sleeping 2–3 hours a 4 night, distractibility, grandiosity, racing ideas, and talkativeness. Id. at 2142. The next month, PA 5 Pearson assessed Li’s anxiety to still be moderate to high, with blunted and anxious affect and 6 depressed, irritable, and agitated mood. Id. at 2138, 2139. 7 In May 2022, Li stopped taking her medication and was placed on a 5150 hold after she 8 “was seen screaming, chasing down bystanders, knocking at people’s doors, and began punching 9 and hitting her head against the wall.” Id. at 1931, 1932. She was diagnosed with bipolar disorder, 10 unspecified; unspecified psychosis not due to a substance; and impulse disorder, unspecified. Id. at 11 1931. RN Natalia Vikhliantseva noted that Li appeared hyperverbal, euphoric, hyperactive, and 12 tangential in thought process. Id. at 1934, 1935. Mr. Yang noted that Li had been acting more 13 strangely and had not slept consistently for a month. Id. at 1935. Dr. Combs noted that her 14 symptoms were manic, her insight, judgment, and impulse control were limited, and her thought 15 process was disorganized and very tangential. Id. at 1937. Approximately one week after 16 admission, while medicated and in a structured environment, Li continued to be paranoid and said 17 that she learned the “good” languages at school, because “you can’t learn the bad ones or you read 18 people’s minds.” Id. at 1959, 1960. At discharge, her mood remained elevated and hyperverbal.

19 Id. at 1950, 1968. Following her hospitalization, Li reported to NP Jafarabad that memories of her

20 childhood and watching her daughter grow older triggered flashbacks related to her childhood 21 traumas. Id. at 2111. NP Jafarabad observed pressured speech, anxious mood, racing thoughts, and 22 fair insight and judgment and again increased her dose of Zoloft. Id. at 2112, 2113, 2118, 2121. 23 As for Li’s testimony, in 2021 and 2023, Li testified that she had difficulty interacting with 24 others, including a fear of communicating with others and struggles with focusing on people when 25 they talk. Id. at 41–111. She testified that her mental health had worsened in the

past several 26 years because she increasingly uncovered more memories from her traumatic childhood as her 27 daughter grows closer to the age when she herself was abused as a child. She testified that she 1 relied on Mr. Yang for many things, from help with bills to hands-on help with doing her part-time 2 work, and often suffered from depression, anxiety, nightmares, and strange fears. She testified that 3 she experienced suicidal ideation at times, heard her mother's voice at night, had difficulty 4 || remembering things, and often required reminders due to her problems focusing and concentrating. 5 Li's testimony is consistent with the medical history described above; specifically, her 6 complaints are consistent with her diagnoses of anxiety, depression, PTSD, ADHD, and dyslexia, 7 as well as the marked impairments identified by Ms. Gayle, Dr. Martin, and Dr. Kerosky. If this 8 evidence were not discredited in error, the ALJ would have been required to find Li disabled. 9 || Though progress notes from Pathways to Wellness indicate that Li had the ability to work and 10 || function without difficulty for several months in 2022 and there is evidence showing some 11 improvement of symptoms when properly medicated, in the context of the substantial evidence 12 summarized above, these facts do not cast serious doubt on the allegations of disability. See, e.g., 5 13 Wellington, 878 F.3d at 876 (finding evidence of improved symptoms and a "return to a level of 14 || function close to the level of function they had before they developed symptoms or signs of their 3 15 mental disorders" can undermine a claim of disability) (internal quotation marks omitted). 16 Therefore, the Court finds remand with instructions to calculate and award benefits 3 17 appropriate under these circumstances. 18 | Iv. CONCLUSION 19 Based on the foregoing, the Court GRANTS Li's motion for summary judgment, DENIES 20 || the Commissioner's motion for summary judgment, and REMANDS for calculation and award of 21 benefits. 22 IT IS SO ORDERED. 23 || Dated: April 28, 2025 24

EDWARD J. DAVILA

26 United States District Judge 27 28 || Case No.: 5:24-cv-02501-EJD

ORDER ON MOTIONS FOR SUMMARY JUDGMENT