

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
WASHINGTON

Linda D. v. Frank Bisignano, Commissioner of Social Security

Linda D. · No. 1:24-CV-03073-LRS · Decided March 19, 2026

OPINION

Donini

PER CURIAM.

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2 FILED IN THE

U.S. DISTRICT COURT

EASTERN DISTRICT OF WASHINGTON

3 Mar 19, 2026

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SEAN F. MCAVOY, CLERK

5 UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WASHINGTON

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7 LINDA D.,1

No: 1:24-CV-03073-LRS

8 Plaintiff,

9 v. ORDER REVERSING AND

REMANDING THE

10 FRANK BISIGNANO, COMMISSIONER'S DECISION FOR

COMMISSIONER OF SOCIAL FURTHER PROCEEDINGS

11 SECURITY,

12 Defendant. 13

BEFORE THE COURT are the parties' briefs. ECF Nos. 9, 13. This matter 14 was submitted for consideration without oral argument. Plaintiff is represented by 15 attorney D. James Tree. Defendant is represented by Special Assistant United States 16 Attorney Shata L. Stucky. The Court, having reviewed the administrative record 17 and the parties' briefing, is fully informed. For the reasons discussed below, 18 19 20 1 The Court identifies a plaintiff in a Social Security case only by the first 21 name and last initial to protect privacy. See Local Civil Rule 5.2(c). 1 Plaintiff's brief, ECF No. 8, is granted in part and Defendant's brief requesting 2 remand, ECF No. 14, is granted.

3 JURISDICTION

4 Plaintiff Linda D. (Plaintiff), filed for supplemental security income (SSI) on
5 December 14, 2018, and alleged an onset date of December 1, 2018. Tr. 211-16.

6 Benefits were denied initially, Tr. 141-44, and upon reconsideration, Tr. 148-54. 7 Plaintiff
appeared at a hearing before an administrative law judge (ALJ) on July 21, 8 2020. Tr. 54-94. In
August 2020, the ALJ issued an unfavorable decision, Tr. 14- 9 37, and in February 2021, the
Appeals Council denied review. Tr. 1-7. Plaintiff 10 appealed to the United States District Court
for the Eastern District of Washington 11 and in March 2022, the undersigned issued an order
reversing and remanding the 12 case for further administrative proceedings. Tr. 1003-1019. 13 A
second hearing was held on February 20, 2024. Tr. 932-71. In March 2024, 14 the ALJ issued a
decision finding Plaintiff disabled as of September 9, 2023, but not 15 disabled before that date.
Tr. 895-25. The matter is now before this Court pursuant 16 to 42 U.S.C. § 1383(c)(3).

17 BACKGROUND

18 The facts of the case are set forth in the administrative hearing and transcripts, 19 the ALJ's
decision, and the briefs of Plaintiff and the Commissioner, and are 20 therefore only summarized
here. 21 1 Plaintiff was born in 1981 and was 37 years old at the time of the alleged 2 onset date.
See Tr. 56. She testified that she went to school until 11th grade and 3 tried to get her GED but
was unsuccessful. Tr. 70, 947. She has work experience 4 sorting and packing fruit. Tr. 71, 87.
Plaintiff testified that she has bipolar, PTSD, 5 ADHD and ADD, anxiety and depression. Tr. 66,
68. She testified that she has a 6 hard time being around people because she gets angry and gets
panic attacks. Tr. 71. 7 She has a history of substance abuse but testified that she had been clean
since 2016 8 or 2017. Tr. 74-75, 957-58. Physically, her hands and feet swell and go numb which
9 causes pain. Tr. 949.

10 STANDARD OF REVIEW

11 A district court's review of a final decision of the Commissioner of Social 12 Security is
governed by 42 U.S.C. § 405(g). The scope of review under § 405(g) is 13 limited; the
Commissioner's decision will be disturbed "only if it is not supported by 14 substantial evidence
or is based on legal error." *Hill v. Astrue*, 698 F.3d 1153, 1158 15 (9th Cir. 2012). "Substantial
evidence" means "relevant evidence that a reasonable 16 mind might accept as adequate to
support a conclusion." *Id.* at 1159 (quotation and 17 citation omitted). Stated differently,
substantial evidence equates to "more than a 18 mere scintilla[,] but less than a preponderance."
Id. (quotation and citation omitted). 19 In determining whether the standard has been satisfied, a
reviewing court must 20 consider the entire record as a whole rather than searching for supporting
evidence in 21 isolation. *Id.* 1 In reviewing a denial of benefits, a district court may not substitute
its 2 judgment for that of the Commissioner. *Edlund v. Massanari*, 253 F.3d 1152, 1156 3 (9th Cir.
2001). If the evidence in the record "is susceptible to more than one 4 rational interpretation, [the
court] must uphold the ALJ's findings if they are 5 supported by inferences reasonably drawn
from the record." *Molina v. Astrue*, 674 6 F.3d 1104, 1111 (9th Cir. 2012). Further, a district court
"may not reverse an ALJ's 7 decision on account of an error that is harmless." *Id.* An error is

harmless “where it is inconsequential to the [ALJ’s] ultimate nondisability determination.” *Id.* at 1115 9 (quotation and citation omitted). The party appealing the ALJ’s decision generally bears the burden of establishing that it was harmed. *Shinseki v. Sanders*, 556 U.S. 396, 409-10 (2009).

12 FIVE-STEP EVALUATION PROCESS

A claimant must satisfy two conditions to be considered “disabled” within the meaning of the Social Security Act. First, the claimant must be “unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months.” 42 U.S.C. § 1382c(a)(3)(A). Second, the claimant’s impairment must be “of such severity that he is not only unable to do his previous work[,] but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy.” 42 U.S.C. § 1382c(a)(3)(B). The Commissioner has established a five-step sequential analysis to determine whether a claimant satisfies the above criteria. See C.F.R. § 416.920(a)(4)(i)-(v). At step one, the Commissioner considers the claimant’s work activity. C.F.R. § 416.920(a)(4)(i). If the claimant is engaged in “substantial gainful activity,” the Commissioner must find that the claimant is not disabled. C.F.R. § 416.920(b). If the claimant is not engaged in substantial gainful activity, the analysis proceeds to step two. At this step, the Commissioner considers the severity of the claimant’s impairment. C.F.R. § 416.920(a)(4)(ii). If the claimant suffers from “any impairment or combination of impairments which significantly limits [his or her] physical or mental ability to do basic work activities,” the analysis proceeds to step three. C.F.R. § 416.920(c). If the claimant’s impairment does not satisfy this severity threshold, however, the Commissioner must find that the claimant is not disabled. C.F.R. § 416.920(c). At step three, the Commissioner compares the claimant’s impairment to severe impairments recognized by the Commissioner to be so severe as to preclude a person from engaging in substantial gainful activity. C.F.R. § 416.920(a)(4)(iii). If the impairment is as severe or more severe than one of the enumerated impairments, the Commissioner must find the claimant disabled and award benefits. C.F.R. § 416.920(d). If the severity of the claimant’s impairment does not meet or exceed the severity of the enumerated impairments, the Commissioner must assess the claimant’s “residual functional capacity.” Residual functional capacity (RFC), defined generally as the claimant’s ability to perform physical and mental work activities on a sustained basis despite his or her limitations, C.F.R. § 416.945(a)(1), is relevant to both the fourth and fifth steps of the analysis. At step four, the Commissioner considers whether, in view of the claimant’s RFC, the claimant is capable of performing work that he or she has performed in the past (past relevant work). C.F.R. § 416.920(a)(4)(iv). If the claimant is capable of performing past relevant work, the Commissioner must find that the claimant is not disabled. C.F.R. § 416.920(f). If the claimant is incapable of performing

such work, the analysis proceeds to step five. 11 At step five, the Commissioner should conclude whether, in view of the 12 claimant's RFC, the claimant is capable of performing other work in the national 13 economy. 20 C.F.R. § 416.920(a)(4)(v). In making this determination, the 14 Commissioner must also consider vocational factors such as the claimant's age, 15 education and past work experience. 20 C.F.R. § 416.920(a)(4)(v). If the claimant 16 is capable of adjusting to other work, the Commissioner must find that the claimant 17 is not disabled. 20 C.F.R. § 416.920(g)(1). If the claimant is not capable of 18 adjusting to other work, analysis concludes with a finding that the claimant is 19 disabled and is therefore entitled to benefits. 20 C.F.R. § 416.920(g)(1). 20 The claimant bears the burden of proof at steps one through four above. 21 *Tackett v. Apfel*, 180 F.3d 1094, 1098 (9th Cir. 1999). If the analysis proceeds to 1 step five, the burden shifts to the Commissioner to establish that (1) the claimant is 2 capable of performing other work; and (2) such work "exists in significant numbers 3 in the national economy." 20 C.F.R. § 416.960(c)(2); *Beltran v. Astrue*, 700 F.3d 4 386, 389 (9th Cir. 2012).

5 ALJ'S FINDINGS

6 At step one, the ALJ found Plaintiff has not engaged in substantial gainful 7 activity since the date of application, December 14, 2018. Tr. 900. At step two, the 8 ALJ found that Plaintiff has the following severe impairments: intellectual disability, 9 depressive disorder, attention deficit hyperactivity disorder, posttraumatic stress 10 disorder, and substance use disorder in partial remission. Tr. 900-01. At step three, 11 the ALJ found that Plaintiff does not have an impairment or combination of 12 impairments that meets or medically equals the severity of a listed impairment. Tr. 13 901. 14 The ALJ then found that before September 9, 2023, the date Plaintiff became 15 disabled, the Plaintiff had the residual functional capacity to perform a full range of 16 work at all exertional levels but with the following additional limitations: 17 She is able to understand, remember, and carry out simple instructions and tasks; she is able to use judgment to make simple 18 work related decision[s]; she cannot perform work requiring a specific production rate (such as assembly line work) or work that 19 requires hourly quotas; she can deal with only rare changes in the work setting; she can have no contact with the public; she is 20 capable of working in proximity to but not in coordination with coworkers; she can have occasional contact with supervisors; she 21 1 can never work at heights or in proximity to hazardous conditions; and she can never drive. 2 Tr. 902. The ALJ then found that since September 9, 2023, Plaintiff has the 3 residual functional capacity to perform a full range of work at all exertional levels 4 but with the following additional limitations: 5 She is unable to understand, remember, and carry out simple 6 instructions and tasks for two hours out of an eight-hour workday; she is unable to use judgment to make simple work related 7 decisions for two hours out of an eight-hour workday; she cannot perform work requiring a specific production rate (such as 8 assembly line work) or work that requires hourly quotas; she can deal with only rare changes in the work setting; she can have no 9 contact with the public; she is capable of working in proximity to but not in coordination with coworkers; she can have occasional 10 contact with supervisors; she can never work at heights or

in proximity to hazardous conditions; and she can never drive. 11 Tr. 909. 12 At step four, the ALJ found Plaintiff has no past relevant work. Tr. 913. At 13 step five, after considering the testimony of a vocational expert and Plaintiff's age, 14 education, work experience, and residual functional capacity, the ALJ found that 15 before September 9, 2023, there were jobs that existed in significant numbers in the 16 national economy that Plaintiff could perform such as marker, router, and inspector, 17 hand packager. Tr. 913. The ALJ found that beginning September 9, 2023, no jobs 18 exist in significant numbers in the national economy that Plaintiff can perform. Tr. 19 914. Thus, the ALJ found that Plaintiff was not disabled before September 9, 2023, 20 21 1 but became disabled on that date and has continued to be disabled through the date 2 of the decision. Tr. 914.

3 ISSUES

4 Plaintiff seeks judicial review of the Commissioner's final decision denying 5 supplemental security income under Title XVI of the Social Security Act. ECF No. 6 9. Plaintiff raises the following issues for review: 7 1. Whether the ALJ properly found disability began on September 9, 2023; 8 2. Whether the ALJ properly evaluated the symptom testimony before September 9, 2023; 9

3. Whether the ALJ properly evaluated the lay witness statements before
10 September 9, 2023;

11 4. Whether the ALJ properly considered the medical opinion evidence before September 9, 2023; 12

5. Whether the ALJ should have evaluated Plaintiff's physical conditions;
13 and 14

6. Whether the matter should be remanded for an award of benefits.

15 ECF No. 9 at 2. 16

DISCUSSION

17 There is no dispute regarding the ALJ's finding that Plaintiff was disabled as 18 of September 9, 2023.² The issue in this case is whether the ALJ should have found 19 20 2 Although there is no stated dispute about this finding, Plaintiff points out the ALJ gave no reason for finding disability as of that date, raising the question of 21 1 Plaintiff to be disabled for the entire period from her alleged onset date of December 2 1, 2018 through and after September 9, 2023. As noted above, Plaintiff asserts five 3 assignments of error regarding the ALJ's findings for the period before September 9, 4 2023 and argues the matter should be remanded for an award of benefits. Defendant 5 concedes the ALJ made legal errors but contends the matter should be remanded for 6 further proceedings. 7 The Social Security Act permits the district court to affirm, modify, or reverse 8 the Commissioner's decision "with or without remanding the cause for a rehearing." 9 42 U.S.C. § 405(g); see also Garrison, 759 F.3d at 1019. When a district court 10 reverses the decision of the Commissioner of Social Security, "the proper course, 11 except in rare circumstances, is to remand to the agency for additional investigation 12 or explanation."

Dominguez v. Colvin, 808 F.3d 403, 407 (9th Cir.2015) (quoting *13 Fla. Power & Light Co. v. Lorion*, 470 U.S. 729, 744 (1985)). Although a court 14 should generally remand to the agency for additional investigation or explanation, 15 the court also has discretion to remand for immediate payment of benefits. *Treichler 16 v. Comm'r of Soc. Sec. Admin.*, 775 F.3d 1090, 1099-1100 (9th Cir. 2014). 17 whether the finding was supported by substantial evidence in the first instance. 18 The date that the claimant first met the statutory definition of disability must be 19 supported by the medical and other evidence and be consistent with the nature of 20 the impairment. Social Security Ruling 18-1p (effective October 2, 2018). 21 1 Under the credit-as-true rule, the Court may order an immediate award of 2 benefits only if three conditions are met: (1) the ALJ failed to provide legally 3 sufficient reasons for rejecting evidence, whether claimant testimony or medical 4 opinion, (2) there are no outstanding issues that must be resolved before a disability 5 determination can be made and further administrative proceedings would serve no 6 useful purpose, and (3) when considering the record as a whole and crediting the 7 improperly discounted testimony as true, there is no doubt as to disability. See *Leon 8 v. Berryhill*, 880 F.3d 1041, 1045 (9th Cir. 2017). However, even if all three criteria 9 are met, the decision to remand for an award of benefits or remand for further 10 proceedings is within the district court's discretion. *Id.* 11 The first step of the credit-as-true rule is met, as noted above. The next 12 question is whether there are any outstanding issues which must be resolved by the 13 ALJ. 14 Plaintiff argues that because the ALJ found Dr. Billings' observations and 15 testing persuasive for the period beginning September 9, 2023, and because the ALJ 16 found the 2019 lay witness statements of Plaintiff's sister, stepfather, mother, family 17 friend, friend, and mother of her girlfriend is "generally consistent" with Dr. 18 Billings' September 2023 observations and testing, the only logical conclusion is 19 that Plaintiff was disabled since the date of onset. ECF No. 14 at 3-4. 20 The Court disagrees. There are inconsistencies in the evidence that preclude 21 Plaintiff's "only logical conclusion." To begin with, the ALJ made a specific finding 1 that for the period before September 9, 2023, to the extent the six witness statements 2 suggest greater limitations than the RFC for that period they are out of proportion to 3 and not corroborated by the longitudinal record. Tr. 906-08. Second, the ALJ found 4 the much less limiting opinions of the state agency mental consultants, Drs. Harrison 5 and Gardner, persuasive for the period before September 9, 2023. Tr. 904. Both of 6 these findings are inconsistent with the Plaintiff's conclusion. Plaintiff disputes both 7 findings, but as discussed below, the persuasiveness and weight of the evidence is an 8 issue for the ALJ on remand. 9 1. Medical Opinions 10 As Defendant concedes, the ALJ erred by failing to adequately address the 11 supportability factor for the opinions of Dr. Billings and Dr. Genthe. The regulations 12 provide an ALJ must consider and evaluate the persuasiveness of all medical 13 opinions or prior administrative medical findings from medical sources. 20 C.F.R. § 14 416.920c(a) and (b). The ALJ is required to explain how supportability and 15 consistency are considered. 20 C.F.R. § 416.920c(b)(2). Failure to do so constitutes 16 error. See *Woods v. Kijakazi*, 32 F.4th 785, 792 (9th Cir. 2022) (holding an ALJ can

17 reject a doctor's opinion as unsupported or inconsistent if the ALJ "provide[s] an 18 explanation supported by substantial evidence." 19 The ALJ failed to address the functional assessment portion of Dr. Billings 20 report which was completed in September 2023. ECF No. 13 at 10. And, the ALJ 21 1 also failed to consider supportability for the opinions of Drs. Harrison and Gardner. 2 Therefore, the ALJ's failure to properly consider any of the psychological opinions 3 means there is an outstanding conflict that must be resolved by the ALJ, not this 4 Court. 5 2. Symptom Statements 6 The ALJ found Plaintiff's "statements concerning the intensity, persistence, 7 and limiting effects of these symptoms are not fully supported prior to September 9, 8 2023." Tr. 903. The ALJ gave four reasons for this finding: (1) the ALJ found the 9 self-reports, findings and observations during routine appointments do not 10 3 Defendant contends the ALJ's statement that Drs. Harrison and Gardner 11 "did not have an opportunity to examine the claimant or to review the updated 12 record" constitutes the supportability finding. In evaluating supportability, the 13 more relevant the objective medical evidence and supporting explanations 14 provided by a medical source to support his or her opinion, the more persuasive the 15 medical opinion will be. 20 C.F.R. § 416.920c(c)(1)-(2). The doctors' review of 16 the record or lack of examinations of their own do not constitute supporting 17 explanations. Dr. Gardner and Dr. Harrison both noted the evidence in the record 18 which impacted their assessments and each provided narrative explanations. See 19 Tr. 116-18, 130-32. These should have been considered by the ALJ in evaluating 20 the supportability of the opinions. 21 1 corroborate the severity or frequency of symptoms alleged; (2) reports of 2 improvements; (3) daily activities; and (4) Plaintiff's inconsistent statements. Tr. 3 903-04. Plaintiff contends the ALJ's reasoning is not supported by the record. The 4 evaluation of a claimant's symptom statements and their resulting limitations relies, 5 in part, on the assessment of the medical evidence. See 20 C.F.R. § 416.929(c); 6 Social Security Ruling 16-3p. For example, Plaintiff argues the ALJ's finding that 7 she sometimes reported improved symptoms is inconsistent with some of the 8 medical opinions. On remand, a new assessment of Plaintiff's subjective symptom 9 statements is necessary. 10 3. Lay Witness Statements 11 As noted above, the ALJ found the limitations indicated in six lay witness 12 statements out of proportion to and not consistent with the longitudinal record for 13 the period before September 9, 2023. Tr. 906-08. Because this finding relies in part 14 on consideration of the medical opinions and Plaintiff's symptom statements, and for 15 the other reasons discussed above, the lay witness statements will also be 16 reconsidered on remand. 17 4. Physical Disorders 18 Plaintiff contends the ALJ failed to properly evaluate her physical disorders. 19 The ALJ found the physical impairment of hepatitis C and other physical 20 impairments mentioned only sporadically, were acute or transient, appear to have 21 resolved, have been responsive to treatment, or did not otherwise cause more than 1 minimal workplace limitations, and therefore found that any physical impairments 2 are nonsevere. Tr. 901. Plaintiff contends the ALJ failed to consider her testimony 3 and medical records indicating physical symptoms such as swelling and pain in her 4 hands and feet. ECF No. 9 at 20. In light of the need

to remand this case for further 5 proceedings, the ALJ will also revisit the evaluation of physical symptoms and 6 evidence.

7 CONCLUSION

8 Having reviewed the record and the ALJ's findings, this Court concludes the 9 ALJ's decision is not supported by substantial evidence and free of harmful legal 10 error. The Court finds that further administrative proceedings are appropriate. See 11 *Treichler v. Comm'r of Soc. Sec. Admin.*, 775 F.3d 1090, 1103-04 (9th Cir. 2014). 12 The Court directs this matter be assigned to a different ALJ on remand. 13 Accordingly, IT IS HEREBY ORDERED: 14 1. Plaintiff's Brief, ECF No. 9, is GRANTED in part regarding Plaintiff's 15 request to remand the case and DENIED in part regarding Plaintiff's request to 16 remand for an award of benefits. 17 2. Defendant's Brief Requesting Remand, ECF No. 13, is GRANTED. 18 3. This case is REVERSED and REMANDED for further administrative 19 proceedings consistent with this Order pursuant to sentence four of 42 U.S.C. § 20 405(g). 21 1 4. On remand, the ALJ shall reconsider the period before September 9, 2023; 2 || shall reconsider the medical and other evidence, including but not limited to the 3 || medical opinion and prior administrative medical finding evidence pursuant to 20 4|| C.F.R. § 416.920c; offer Plaintiff an opportunity to submit additional evidence; further develop the record as necessary; and issue a new decision. 6 IT IS SO ORDERED. The District Court Executive is directed to enter this 7|| Order and provide copies to counsel. Judgment shall be entered for Plaintiff and the 8 || file shall be CLOSED. 9 DATED March 30, 2026. yy "y

LONNY R. SUKO

11 Senior United States District Judge 12 13 14 15 16 17 18 19 20 21

ORDER PEVERGING ANT RPENANDING TUE CONMNTCOTIONER °C