

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Bobbie R. v. O'Malley

No. 23-cv-05770-RMI (N.D. Cal. Mar. 11, 2025) · No. 23-cv-05770-RMI · Decided March 11, 2025

SUMMARY

The court remanded a Social Security disability case for further proceedings. It held that the ALJ failed to adequately consider the plaintiff’s PTSD at Step Two, Step Three, and in formulating the residual functional capacity, and failed to fully develop the record. The court declined to reach the plaintiff’s remaining arguments.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Robert M. Illman
JURISDICTION	United States District Court for the Northern District of California
DECIDED	March 11, 2025
DOCKET	23-cv-05770-RMI
DISPOSITION	remanded
PROCEDURAL POSTURE	Plaintiff sought judicial review under 42 U.S.C. §§ 405(g) and 1383(c) (3) of the Commissioner's final decision denying Social Security disability benefits. The parties consented to magistrate-judge jurisdiction, and the court reviewed the administrative record and briefing.
STANDARD OF REVIEW	The court may set aside the denial of benefits only if it is unsupported by substantial evidence or based on legal error. The Commissioner's factual findings are conclusive when supported by substantial evidence, defined as such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. The court reviews the administrative record as a whole, considering evidence supporting and detracting from the Commissioner's conclusion.
PRECEDENTIAL VALUE	unknown
PARTIES	Bobbie R. v. Martin O'Malley

TOPICS

judicial review of agency action

agency adjudication

administrative law

disability definition

remedies

PRACTICE AREAS

Social Security disability

administrative law

judicial review of agency action

QUESTIONS PRESENTED

1. Whether the ALJ committed legal error by failing to properly evaluate Plaintiff's PTSD at Step Two of the sequential disability analysis.
2. Whether the ALJ adequately considered Plaintiff's PTSD at Step Three under Listing 12.15 and when formulating the residual functional capacity.
3. Whether the ALJ's failure to evaluate the PTSD evidence rendered the Step Three determination and residual functional capacity unsupported by substantial evidence.
4. Whether the case should be remanded for further proceedings rather than having the court reach Plaintiff's remaining arguments.

HOLDINGS

1. The ALJ committed legal error by treating or effectively treating Plaintiff's PTSD as subject to exclusion at Step Two without properly applying the de minimis standard, despite substantial record evidence supporting the impairment.
2. The ALJ erred by failing to properly evaluate Plaintiff's PTSD symptoms and limitations under Listing 12.15 and by failing to account for the PTSD evidence when formulating the residual functional capacity.
3. The ALJ failed to fulfill the duty to develop the record fully and fairly regarding Plaintiff's PTSD and its limitations during the relevant disability period.

KEY QUOTATIONS

“such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” (at 1)

“A Step Two error is only considered harmless if the relevant impairment is considered by the ALJ during the Step Three analysis and during the formulation of the RFC.” (at 3)

“The ALJ’s duty to “conduct an appropriate inquiry” is triggered where evidence is ambiguous or when the record is inadequate to allow for proper evaluation of the evidence.” (at 4)

“The ALJ’s duty to develop the record fully is also heightened where the claimant may be mentally ill and thus unable to protect her own interests.” (at 4)

FACTUAL BACKGROUND

Plaintiff stopped working in 2015 after her employer disappeared and was later found dead, and she was eventually terminated in 2021 after attempting to return to work and receiving counseling. She had experienced PTSD and received counseling since 2012, later reporting daily suicidal thoughts. The ALJ found that Plaintiff

could perform simple, routine work with limited interaction and no tandem or teamwork, and denied benefits based on her ability to perform other jobs. The record contained extensive evidence of PTSD, but the ALJ did not meaningfully evaluate its symptoms and work-related limitations.

PROCEDURAL HISTORY

An ALJ denied Plaintiff's application for benefits under Titles II and XVI of the Social Security Act. The Appeals Council denied review, making the ALJ's decision the Commissioner's final decision. The district court remanded for further proceedings because the ALJ failed to properly consider Plaintiff's PTSD at Step Two, Step Three, and in formulating the residual functional capacity.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The case is remanded for further proceedings consistent with the order. The ALJ must properly develop the record regarding Plaintiff's PTSD, consider the PTSD evidence at Step Two and Step Three, formulate an RFC supported by substantial evidence, and modify any ensuing ALJ opinion as appropriate to reflect consideration and resolution of the issues identified. The court declined to address Plaintiff's remaining arguments, which may be addressed on remand if necessary.

CASES CITED

- *Flaten v. Sec'y of Health & Human Servs.*, 44 F.3d 1453, 1457 (9th Cir. 1995)
- *Biestek v. Berryhill*, 139 S. Ct. 1148, 1154 (2019)
- *Consol. Edison Co. v. NLRB*, 305 U.S. 197, 229 (1938)
- *Sandgathe v. Chater*, 108 F.3d 978, 979 (9th Cir. 1997)
- *Reddick v. Chater*, 157 F.3d 715, 720 (9th Cir. 1998)
- *Burch v. Barnhart*, 400 F.3d 676, 679 (9th Cir. 2005)
- *Buck v. Berryhill*, 869 F.3d 1040, 1048-49 (9th Cir. 2017)
- *Bowen v. Yuckert*, 482 U.S. 137, 153-54 (1987)
- *Edlund v. Massanari*, 253 F.3d 1152, 1158 (9th Cir. 2001)
- *Smolen v. Chater*, 80 F.3d 1273, 1290 (9th Cir. 1996)
- *Webb v. Barnhart*, 433 F.3d 683, 687 (9th Cir. 2005)
- *Mayes v. Massanari*, 276 F.3d 453, 459-60 (9th Cir. 2001)
- *Tonapetyan v. Halter*, 242 F.3d 1144, 1150 (9th Cir. 2001)
- *Tidwell v. Apfel*, 161 F.3d 599, 602 (9th Cir. 1998)
- *Hiler v. Astrue*, 687 F.3d 1208, 1212 (9th Cir. 2012)
- *Augustine ex rel. Ramirez v. Astrue*, 536 F. Supp. 2d 1147, 1153 n.7 (C.D. Cal. 2008)
- *Steven M. v. Saul*, 2021 U.S. Dist. LEXIS 52225, *17 (N.D. Cal. Mar. 19, 2021)

OPINION

1 2 3 4 UNITED STATES DISTRICT COURT 5 NORTHERN DISTRICT OF CALIFORNIA 6
EUREKA DIVISION 7 8 BOBBIE R.,¹ Case No. 23-cv-05770-RMI 9 Plaintiff, ORDER
REMANDING CASE FOR 10 v. FURTHER PROCEEDINGS 11 MARTIN O'MALLEY, Re: Dkt.
No. 9 12 Defendant. 13 14 Plaintiff seeks judicial review of an administrative law judge ("ALJ")
decision denying her 15 application for benefits under Titles II and XVI of the Social Security Act.

See Admin. Rec. at 19.2 16 Plaintiff's request for review of the ALJ's unfavorable decision was
denied by the Appeals 17 Council (see *id.* at 1), thus, the ALJ's decision is the "final decision" of
the Commissioner of 18 Social Security which this court may review. See 42 U.S.C. §§ 405(g),
1383(c)(3). Both Parties 19 have consented to the jurisdiction of a magistrate judge (dks.

6, 7), and the matter has been fully 20 briefed (see dks. 9, 10, 11). For the reasons stated below,
this case is remanded for further 21 proceedings. 22 LEGAL STANDARDS 23 The
Commissioner's findings "as to any fact, if supported by substantial evidence, shall be 24
conclusive." 42 U.S.C. § 405(g). A district court has a limited scope of review and can only set 25
26 1 Pursuant to the recommendation of the Committee on Court Administration and Case
Management of the 27 Judicial Conference of the United States, Plaintiff's name is partially
redacted.

1 aside a denial of benefits if it is not supported by substantial evidence or if it is based on legal 2
error. *Flaten v. Sec'y of Health & Human Servs.*, 44 F.3d 1453, 1457 (9th Cir. 1995). The phrase 3
"substantial evidence" appears throughout administrative law and directs courts in their review of
4 factual findings at the agency level. See *Biestek v. Berryhill*, 139 S. Ct.

1148, 1154 (2019). 5 Substantial evidence is defined as "such relevant evidence as a reasonable
mind might accept as 6 adequate to support a conclusion." *Id.* at 1154 (quoting *Consol. Edison Co.*
v. NLRB, 305 U.S. 7 197, 229 (1938)); see also *Sandgate v. Chater*, 108 F.3d 978, 979 (9th Cir.
1997). "In 8 determining whether the Commissioner's findings are supported by substantial
evidence," a 9 district court must review the administrative record as a whole, considering "both
the evidence 10 that supports and the evidence that detracts from the Commissioner's conclusion."
Reddick v. 11 *Chater*, 157 F.3d 715, 720 (9th Cir.

1998). The Commissioner's conclusion is upheld where 12 evidence is susceptible to more than
one rational interpretation. *Burch v. Barnhart*, 400 F.3d 676, 13 679 (9th Cir. 2005). As to the five-
step sequential evaluation process required by federal 14 regulations for the evaluation of
disability claims, Plaintiff has set forth those details adequately. 15 See Pl.'s Br. (dkt.

9) at 14-15. 16 SUMMARY OF THE RELEVANT EVIDENCE 17 Plaintiff has rendered a
detailed recitation of the factual background of this case. See *id.* at 18 5-14. In light of which, the
court does not feel it necessary to reiterate all of those details here. 19 Suffice it to say that

Plaintiff has alleged, inter alia, that the ALJ erred by failing to consider her PTSD at Step Two and beyond.

Id. at 5. Plaintiff stopped working in 2015, when her boss went missing after leaving her home and was found dead on the side of the road three days later. See AR at 44. She attempted to return to work briefly but was unable to continue despite receiving counseling, and she was eventually terminated in 2021 after receiving a severance package. Id. Plaintiff had been grappling with PTSD and receiving counseling for it since 2012, and she had obtained her job at a manufacturing company through a program at Catholic Charities for people with mental health concerns.

Id. at 27 46-47. She had been without a psychiatrist since June 2021 because her prior doctor had left in 2016, but she has since reported suicidal thoughts daily. Id. at 62. The vocational expert (“VE”) in this case described Plaintiff’s past work as a heavy equipment operator, a safety technician, a quality control technician, and a waitress. Id. at 64.

The VE also testified that an individual capable of performing simple and routine tasks, simple work-related decisions, having occasional superficial interaction with the public, and occasional interaction with coworkers and supervisors with no tandem, team, or group work could work as a hospital cleaner, kitchen helper, or warehouse worker. Id. at 66.

It was further opined that such a person could also work as a cleaner II and a mail clerk. Id. at 66-67. The VE added that employers would generally tolerate someone being off-task up to 10% of the workday, as well as one absence per month. Id. at 67. According to the VE, an individual soiling themselves at work on a weekly basis, as is the case with Plaintiff, “would present a problem.” Id. at 69.

Following the hearing, the ALJ determined that Plaintiff had the residual functional capacity to perform simple, routine tasks with simple work-related decisions, occasional interaction with supervisors and coworkers and superficial public interactions, but no tandem or team-work. Id. at 27. He concluded that she was not disabled despite being unable to perform any of her past work because he found she was capable of performing other work (e.g., as a hospital cleaner, a kitchen helper, a warehouse worker, a cleaner II, or as a mail clerk).

Id. at 31. Because it is relevant to Plaintiff’s assertion that the ALJ failed to consider evidence of her PTSD at Step Two, the court will note that the record in this case is teeming with evidence of Plaintiff’s PTSD. See id. at 611, 616, 621, 629, 630, 632-33, 636, 642, 693, 705, 707, 710, 714, 715, 991, 973, 976, 1011-12, 1041, 1114, 1117-50, 1154, 1157 1163-64, 1168, 1173, 1175, 1328; see also Pl.’s Br.

22 (dkt. 9) at 16-17. DISCUSSION Plaintiff raises four claims in this court – including the claim that the ALJ erred by failing to find Plaintiff’s PTSD to be a severe impairment at Step

Two and also by failing to consider it at Step Three or during the formulation of the residual functional capacity (“RFC”). See generally 27 Pl.s’ Br. (dkt. 9) at 5, 16-29.

The court’s review of the ALJ’s decision bears out the fact that the court finds that the ALJ appears to have not considered that evidence at Step Three by properly evaluating Plaintiff’s PTSD symptoms and limitations in light of the requirements set forth under Listing 12.15 (Trauma and Stressor-Related Disorders). See *id.* at 25-26. Neither does it appear that the ALJ considered this evidence when formulating the RFC.

See *id.* at 27-30. What is puzzling is the fact that the ALJ twice mentioned Plaintiff’s PTSD (see *id.* at 27, 28) but that he did so without considering its symptoms and effects on Plaintiff’s work-related abilities. Defendant submits that the ALJ’s failure in this regard was harmless error. See Def.’s Opp. 8 (dkt. 10) at 5-6.

The gist of Defendant’s argument is: (1) that Plaintiff has not shown that she was prejudiced as a result of the ALJ’s omission; (2) that Plaintiff’s other mental impairments were considered; and (3) that, while some treatment providers diagnosed Plaintiff with PTSD, others did not. See *id.* at 6.

However, as Plaintiff points out, a Step Two error is only considered harmless if the relevant impairment is considered by the ALJ during the Step Three analysis and during the formulation of the RFC. Pl.’s Reply (dkt. 11) at 2 (citing *Buck v. Berryhill*, 869 F.3d 1040, 1048-49 (9th Cir. 2017)).

The court agrees and finds that the ALJ’s failure in this regard: (1) was legal error based on a misapprehension of the standards associated with Step Two determinations; (2) was rooted in the failure to properly develop the record as to Plaintiff’s PTSD and its limitations during the relevant disability period; and, (2) that the error resulted in a Step Three determination and an RFC that is not based on substantial evidence (which, infected the remainder of the ALJ’s decisions as well) – necessitating a remand for further proceedings.

Step Two’s evaluation is a *de minimis* test intended to weed out patently groundless claims and the most minor of impairments. See *Bowen v. Yuckert*, 482 U.S. 137, 153-54 (1987); 22 *Edlund v. Massanari*, 253 F.3d 1152, 1158 (9th Cir. 2005) (stating that the step two inquiry is a *de minimis* screening device to dispose of groundless claims) (quoting *Smolen v. Chater*, 80 F.3d 1273, 1290 (9th Cir.

1996)); *Webb v. Barnhart*, 433 F.3d 683, 687 (9th Cir. 2005) (step two is a “*de minimis* threshold”). An impairment is non-severe at Step Two only if the evidence establishes a slight abnormality that has only a minimal effect on an individual’s ability to work. *Smolen*, 80 F.3d at 1290. Given the record of evidence supporting Plaintiff’s PTSD, and given the fact that the 1

erred in finding that condition to be subjected to weeding out at Step Two as patently groundless, 2 or as the most minor of impairments.

Instead, the court finds that Plaintiff's PTSD warrants 3 serious consideration in the development of a full and fair disability record, both at Step Three and 4 in the ultimate formulation of Plaintiff's RFC. In fact, it appears to the court that the combination 5 of the physical and mental conditions described in Plaintiff's opening brief may indeed be 6 disabling (see Pl.'s Br. (dkt.

9) at 7-14) – however – due to the ALJ's failure to properly develop 7 the record and properly engage the five-step sequential evaluation process, further proceedings are 8 necessary. 9 In Social Security cases, the ALJ has a special duty to develop the record fully and fairly 10 and to ensure that the claimant's interests are considered, even when the claimant is represented by 11 counsel.

Mayes v. Massanari, 276 F.3d 453, 459-60 (9th Cir. 2001). The ALJ's duty to “conduct 12 an appropriate inquiry” is triggered where evidence is ambiguous or when the record is inadequate 13 to allow for proper evaluation of the evidence. Id.; see also Tonapetyan v. Halter, 242 F.3d 1144, 14 1150 (9th Cir. 2001). “The ALJ's duty to develop the record fully is also heightened where the 15 claimant may be mentally ill and thus unable to protect her own interests.” Id. “The ALJ may 16 discharge this duty in several ways, including: subpoenaing the claimant's physicians, submitting 17 questions to the claimant's physicians, continuing the hearing, or keeping the record open after the 18 hearing to allow supplementation of the record.” Id. (citing Tidwell v. Apfel, 161 F.3d 599, 602 19 (9th Cir.

1999)). Here, the court finds that the ALJ erred in failing to consider Plaintiff's PTSD at 20 Step Two and beyond. 21 Because the additional record development set forth above is necessary, the court declines 22 to address Plaintiff's remaining arguments. Those issues, if necessary, may be addressed on 23 remand. See Hiler v. Astrue, 687 F.3d 1208, 1212 (9th Cir.

2012) (“Because we remand the case to 24 the ALJ for the reasons stated, we decline to reach [plaintiff's] alternative ground for remand.”); 25 Augustine ex rel. Ramirez v. Astrue, 536 F. Supp. 2d 1147, 1153 n.7 (C.D. Cal. 2008) (“[The] 26 Court need not address the other claims plaintiff raises, none of which would provide plaintiff 27 with any further relief than granted, and all of which can be addressed on remand.”).

On remand, 1 modify any ensuing ALJ opinion as appropriate in order to reflect that those issues have been 2 considered and addressed. Steven M. v. Saul, 2021 U.S. Dist. LEXIS 52225, *17 (N.D. Cal. Mar. 3 19, 2021). 4 CONCLUSION 5 Accordingly, this case is REMANDED for further proceedings consistent with the 6 || holdings and instructions provided herein. A separate judgment shall issue.

7 IT IS SO ORDERED. 8 Dated: March 11, 2025 9 10 RQBERT M. ILLMAN I United States Magistrate Judge 12 13 © 15 16 = 17 Z 18 19 20 21 22 23 24 25 26 27 28

