

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
WASHINGTON**

Mylindsie A. v. Frank Bisignano, Commissioner of Social Security

Mylindsie A. · No. 1:25-CV-03140-RLP · Decided March 13, 2026

OPINION

1 U.S. DISTRICT COURT EASTERN DISTRICT OF WASHINGTON 2 Mar 13, 2026 3 SEAN
F. MCAVOY, CLERK 4 5 UNITED STATES DISTRICT COURT 6 EASTERN DISTRICT OF
WASHINGTON 7 MYLINDSIE A., 8 NO: 1:25-CV-03140-RLP Plaintiff, 9 v. ORDER
REVERSING AND 10 REMANDING THE FRANK BISIGNANO, COMMISSIONER’S
DECISION FOR 11 COMMISSIONER OF SOCIAL FURTHER ADMINISTRATIVE
SECURITY, PROCEEDINGS 12 Defendant.

13 14 BEFORE THE COURT is an appeal from an Administrative Law Judge 15 (ALJ) final
decision, denying supplemental security income under Title XVI of the 16 Social Security Act.
ECF No. 10. The Court considered the matter without oral 17 argument.

The parties agree the ALJ committed reversible error but dispute the 18 appropriate remedy.
Because there are outstanding issues and conflicts in the 19 evidence which must be decided by
the ALJ, the Court remands the case for further 20 proceedings. 21 1 BACKGROUND 2 Ms. A.
was 32 years old at the time of application. Tr. 24. She left school in 3 the ninth grade.

Tr. 37, 784. She has no work experience. Tr. 37-38. 4 Ms. A. filed for supplemental security
income (SSI) under Title XVI of the 5 Social Security Act, alleging an onset date of June 11,
2003. Tr. 218-23. She alleged 6 she is unable to work due to symptoms from anxiety, depression,
PTSD and a 7 learning disability. Tr. 284, 293. Benefits were denied initially, Tr.

67-71, and upon 8 reconsideration, Tr. 73-76. 9 Ms. A. failed to appear at the hearing held by the
administrative law judge 10 (ALJ) on August 7, 2024, although her attorney appeared and the
vocational expert 11 testified. Tr. 31-47.

On October 2, 2024, the ALJ issued an unfavorable decision, Tr. 12 14-30, and on July 1, 2025,
the Appeals Council denied review. Tr. 1-6. The matter 13 is now before this Court pursuant to 42
U.S.C. § 1383(c)(3). 14 STANDARD OF REVIEW 15 This Court’s review of a final decision of
the Commissioner of Social Security 16 is governed by 42 U.S.C. § 405(g).

The scope of review under § 405(g) is limited; 17 the Commissioner’s decision will be disturbed
“only if it is not supported by 18 substantial evidence or is based on legal error.” Hill v. Astrue,
698 F.3d 1153, 1158 19 (9th Cir. 2012). If the evidence in the record “is susceptible to more than
one 20 rational interpretation, [the Court] must uphold the ALJ’s findings if they are 21 1

supported by inferences reasonably drawn from the record.” *Molina v. Astrue*, 674 2 F.3d 1104, 111 (9th Cir.

2012). 3 Further, a district court “may not reverse an ALJ’s decision on account of an 4 error that is harmless.” *Id.* An error is harmless “where it is inconsequential to the 5 [ALJ’s] ultimate nondisability determination.” *Id.* at 1115 (quotation and citation 6 omitted).

The party appealing the ALJ’s decision generally bears the burden of 7 establishing harm. *Shinseki v. Sanders*, 556 U.S. 396, 409-10, 129 S.Ct. 1696 8 (2009). 9 FIVE-STEP EVALUATION PROCESS 10 A claimant must satisfy two conditions to be considered “disabled” within the 11 meaning of the Social Security Act.

First, the claimant must be “unable to engage in 12 any substantial gainful activity by reason of any medically determinable physical or 13 mental impairment which can be expected to result in death or which has lasted or 14 can be expected to last for a continuous period of not less than twelve months.” 42 15 U.S.C. § 1382c(a)(3)(A).

Second, the claimant’s impairment must be “of such 16 severity that he is not only unable to do [his or her] previous work[,] but cannot, 17 considering [his or her] age, education, and work experience, engage in any other 18 kind of substantial gainful work which exists in the national economy.” 42 U.S.C. § 19 1382c(a)(3)(B). 20 21 1 The Commissioner has established a five-step sequential analysis to determine 2 whether a claimant satisfies the above criteria.

See 20 C.F.R. § 416.920(a)(4)(i)- 3 (v). At step one, if the claimant is engaged in “substantial gainful activity,” the 4 Commissioner must find the claimant is not disabled. 20 C.F.R. § 416.920(b). At 5 step two, the Commissioner considers the severity of the claimant’s impairment. 20 6 C.F.R. § 416.920(a)(4)(ii). If the claimant suffers from “any impairment or 7 combination of impairments which significantly limits [his or her] physical or 8 mental ability to do basic work activities,” the analysis proceeds to step three.

20 9 C.F.R. § 416.920(c). At step three, the Commissioner compares the claimant’s 10 impairment to severe impairments recognized by the Commissioner to be so severe 11 as to preclude a person from engaging in substantial gainful activity. 20 C.F.R. § 12 416.920(a)(4)(iii). 13 If the severity of the claimant’s impairment does not meet or exceed the 14 severity of the enumerated impairments, the Commissioner must assess the 15 claimant’s residual functional capacity (RFC), which is the is the most a claimant 16 can do despite his or her limitations.

20 C.F.R. § 416.945(a)(1). 17 At step four, the Commissioner considers whether, in view of the claimant’s 18 RFC, the claimant is capable of performing work he or she has performed in the past 19 (past relevant work). 20 C.F.R. § 416.920(a)(4)(iv). At step five, the Commissioner 20 21 1 considers whether, in view of the claimant’s RFC, the claimant is capable of 2 performing other work in the national economy.

20 C.F.R. § 416.920(a)(4)(v). 3 The claimant bears the burden of proof at steps one through four. Tackett v. 4 Apfel, 180 F.3d 1094, 1098 (9th Cir. 1999). If the analysis proceeds to step five, the 5 burden shifts to the Commissioner to establish (1) the claimant is capable of 6 performing other work; and (2) such work “exists in significant numbers in the 7 national economy.” 20 C.F.R. § 416.960(c)(2); Beltran v. Astrue, 700 F.3d 386, 389 8 (9th Cir.

2012). 9 ALJ’S FINDINGS 10 At step one, the ALJ found Ms. A. has not engaged in substantial gainful 11 activity since December 22, 2022, the application date. Tr. 20. At step two, the ALJ 12 found the following severe impairments: depression, bipolar, anxiety, posttraumatic 13 stress disorder (PTSD), drug abuse, and borderline personality. Tr. 20. At step three, 14 the ALJ found Ms. A. does not have an impairment or combination of impairments 15 that meets or medically equals the severity of a listed impairment.

Tr. 20. 16 With respect to the RFC, the ALJ found Ms. A. has the capacity to perform a 17 full range of work at all exertional levels except for the following nonexertional 18 limitations: 19 She should not work in an environment that allows direct access to drugs, such as work in a hospital or pharmacy, for example. She 20 can understand, remember, carry out, and maintain pace for unskilled work tasks; can tolerate occasional interaction with 21 1 supervisors, co-workers, and the general public, but cannot tolerate a job where confrontation with the general public may be a natural 2 occurrence, such as resolution of customer disputes or security guard, for example.

Due to limitations in maintaining focus, 3 attention, and concentration, she will be off-task for 5-10% of the average workday, but can maintain adequate focus, attention, and 4 concentration to perform unskilled work. She can adapt adequately to ordinary changes in an unskilled work setting. 5 Tr. 21. 6 At step four, the ALJ found Ms. A. has no past relevant work.

Tr. 24. At step 7 five, after considering Ms. A.’s RFC, the testimony of a vocational expert, and Ms. 8 A.’s age, education, and work experience, the ALJ found there are jobs existing in 9 significant numbers in the national economy the claimant can perform such as 10 laundry worker, routing clerk, and sorter. Tr. 25. 11 Based on the adverse finding at step five, the ALJ determined Ms. A. has not 12 been under a disability, as defined in the Social Security Act, since December 22, 13 2022, the date the application was filed.

Tr. 26. 14 ANALYSIS 15 Ms. A. contends the ALJ erred in evaluating her symptom statements and the 16 psychological opinion of Dr. Thomas Genthe, which, if credited, would result in a 17 disabling RFC finding. Ms. A. also contends the ALJ failed to properly consider the 18 vocational expert’s testimony, which according to Ms. A. would result in a finding 19 she cannot work if properly considered.

ECF No. 10 at 2. The Commissioner 20 concedes the ALJ erred. ECF No. 14 at 1. The Commissioner does not acknowledge 21 1 any specific error but asserts the record contains

evidence that Ms. A. is not as 2 limited as alleged and that the ALJ properly considered the vocational expert's 3 testimony. ECF No. 14 at 3-4. This suggests the Commissioner concedes the ALJ 4 erred in evaluating Dr. Genthe's opinion.

5 Thus, the only issue in dispute is whether the Court should remand for further 6 proceedings or an award of benefits. See ECF No. 10 at 2, 21 (requesting remand for 7 award of benefits); ECF No. 14 (requesting remand for further proceedings); ECF 8 No. 16 (opposing the Commissioner's request to remand for further proceedings).

As 9 explained below, the Court concludes remand for further proceedings is necessary in 10 this case. 11 The Social Security Act permits the district court to affirm, modify, or 12 reverse the Commissioner's decision "with or without remanding the cause for a 13 rehearing." 42 U.S.C. § 405(g); see also *Garrison v. Colvin*, 759 F.3d 995, 1019 14 (9th Cir. 2014).

When a district court reverses the decision of the Commissioner of 15 Social Security, "the proper course, except in rare circumstances, is to remand to 16 the agency for additional investigation or explanation." *Dominguez v. Colvin*, 808 17 F.3d 403, 407 (9th Cir.2015) (quoting *Fla. Power & Light Co. v. Lorion*, 470 U.S. 18 729, 744 (1985)).

Although a court should generally remand to the agency for 19 additional investigation or explanation, the court also has discretion to remand for 20 21 1 immediate payment of benefits. *Treichler v. Comm'r of Soc. Sec. Admin.*, 775 F.3d 2 1090, 1099-1100 (9th Cir. 2014). 3 Under the credit-as-true rule, the Court may order an immediate award of 4 benefits only if three conditions are met: (1) the ALJ failed to provide legally 5 sufficient reasons for rejecting evidence, whether claimant testimony or medical 6 opinion, (2) there are no outstanding issues that must be resolved before a disability 7 determination can be made and further administrative proceedings would serve no 8 useful purpose, and (3) when considering the record as a whole and crediting the 9 improperly discounted testimony as true, there is no doubt as to disability.

See *Leon 10 v. Berryhill*, 880 F.3d 1041, 1045 (9th Cir. 2017). However, even if all three criteria 11 are met, the decision to remand for an award of benefits or remand for further 12 proceedings is within the district court's discretion. *Id.* 13 The first step of the credit-as-true rule is met, as discussed above, with respect 14 to Dr. Genthe's opinion.

The next question is whether there are any outstanding 15 issues which must be resolved by the ALJ. The Court concludes there are 16 outstanding issues to be resolved in this case. 17 First, even if Ms. A. were found to be disabled (and the Court does not so 18 find), it appears further analysis of Ms. A.'s limitations would be necessary. A 19 finding of "disabled" does not automatically qualify a claimant for disability 20 benefits.

Bustamante v. Massanari, 262 F.3d 949, 954 (9th Cir. 2001.) When there is 21 1 medical evidence of drug or alcohol addiction, the ALJ must determine whether the 2 drug or alcohol addiction is a

material factor contributing to the disability. 20 C.F.R. 3 § 416.935(a).

To do so, the ALJ must evaluate which of the current physical and 4 mental limitations would remain if the claimant stopped using drugs or alcohol, then 5 determine whether any or all of the remaining limitations would be disabling. 20 6 C.F.R. § 416.935(b)(2). If not, then DAA is a contributing factor material to the 7 determination of disability. *Id.* If the remaining limitations would be disabling, the 8 claimant is disabled regardless of drug or alcohol addiction, and the addiction is not 9 a contributing factor material to the disability determination.

Id. 10 In this case, there is evidence of substance use and the ALJ found drug abuse 11 is a severe impairment at step two. Tr. 20; see Tr. 23 (citing Tr. 732). However, after 12 evaluating the evidence, the ALJ concluded, “[t]he claimant’s substance abuse is not 13 material to the determination of disability. This is because the claimant, even with 14 her substance use disorder, is not found to be disabled.” This suggests if Ms. A. were 15 found to be disabled, the ALJ would need to conduct an analysis to determine which 16 of her limitations would remain without DAA and whether her remaining limitations 17 would be disabling.

Accordingly, remand for additional proceedings is the 18 appropriate remedy. 19 Second, even if Dr. Genthe’s opinion were credited, there is a conflict with the 20 ALJ’s finding regarding the opinion of the psychological consultant, Dr. Andrew F. 21 1 Tr. 24, Tr. 62-64.

The ALJ credited Dr. F.’s opinion regarding only the limitation to 2 simple tasks, which is not challenged by Ms. A. Tr. 24. This conflicts with Dr. 3 Genthe’s disabling assessment, Tr. 783-87, and the resolution of this conflict must 4 be performed by the ALJ. 5 Third, the ALJ gave two reasons for finding Ms. A.’s symptoms not as 6 severe as alleged: (1) they improved with treatment; and (2) they are inconsistent 7 with her daily activities.

Ms. A. contends the ALJ’s reasoning failed to address the 8 “waxing and waning” of her mental health symptoms. See *Garrison v. Colvin*, 759 9 F.3d 995, 1017 (9th Cir. 2014) (“Symptoms may wax and wane during the 10 progression of a mental disorder.”). Nevertheless, even when symptoms wax and 11 wane, “evidence of medical treatment successfully relieving symptoms can 12 undermine a claim of disability.” *Wellington v. Berryhill*, 878 F.3d 867, 876 (9th 13 Cir.

2017). Since this matter is remanded for further proceedings, the ALJ should 14 reassess Ms. A.’s symptom statements and address the impact of waxing and 15 waning of mental health symptoms in the record. 16 As to the ALJ’s finding regarding her daily activities, Ms. A. asserts the ALJ 17 failed to explain how these activities are inconsistent with her alleged limitations.

18 The ALJ found activities such as serving as her mother’s caregiver, grocery 19 shopping, attending church, and using public transportation “show the claimant can 20 tolerate occasional interaction” with others. Tr. 23.

The ALJ observed the range of 21 1 her activities, plus the ability to schedule her own medical appointments, “show[s] 2 the claimant can maintain focus, attention, and concentration to perform unskilled 3 work [and] can adapt adequately to ordinary changes in the work setting.” Tr. 23. 4 Nevertheless, as part of the revisiting of the sequential process on remand, the ALJ 5 should reevaluate Ms. A.’s daily activities and explain any inconsistencies 6 identified.

7 Lastly, Ms. A. asserts the ALJ failed to properly consider the meaning of the 8 vocational expert’s testimony regarding the limitation to occasional interaction as it 9 impacts the training period of the jobs identified.

On remand, the ALJ shall address 10 this issue as is appropriate based on the new sequential evaluation, and if necessary 11 obtain supplemental vocational expert testimony as required by the RFC finding. 12 The parties agree the ALJ’s decision is not supported by substantial evidence. 13 The Court concludes there are outstanding issues which make remand for benefits 14 inappropriate.

On remand, the ALJ shall reconsider Dr. Genthe’s opinion, reconsider 15 the evidence, develop the record as needed, conduct a new sequential evaluation, and 16 issue a new decision consistent with this order. 17 Accordingly, IT IS HEREBY ORDERED: 18 1. Plaintiff’s Brief, ECF No. 10, is GRANTED in part and DENIED in 19 part. It is granted in part regarding Plaintiff’s request to remand.

It is denied in part 20 regarding Plaintiff’s request the Court remand to award benefits. 21 1 2. Defendant’s Brief Requesting Remand, ECF No. 14, is GRANTED. 2 3. This case is REVERSED and REMANDED for further 3 || administrative proceedings pursuant to sentence four of 42 U.S.C. § 405(g). 4 IT IS SO ORDERED.

The District Court Clerk is directed to enter this Order 5 || and provide copies to counsel. Judgment shall be entered for the Plaintiff and the file 6|| shall be CLOSED. 7 DATED March 13, 2026. 9 REBECCA L. PENNELL United States District Judge 10 11 12 13 14 15 16 17 18 19 20 21 ORDER REVERSING AND REMANDING THE COMMISSIONER’S NECTISION ENR ANNTITION AT DROACEBNINICE _.