

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Lashaw O. v. Commissioner of Social Security

Lashaw O. · No. 24-cv-1461-W-SBC · Decided May 23, 2025

SUMMARY

This Report and Recommendation concerns judicial review under 42 U.S.C. § 405(g) of the denial of supplemental security income benefits. The court recommends reversing the Commissioner’s final decision and remanding for further proceedings, concluding that the ALJ inadequately evaluated medical opinions and the claimant’s subjective symptom testimony. The document identifies the action as Case No. 24-cv-1461-W-SBC in the Southern District of California.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Steve B. Chu
JURISDICTION	United States District Court, Southern District of California
DECIDED	May 23, 2025
DOCKET	24-cv-1461-W-SBC
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Report and recommendation on a Social Security claimant's action under 42 U.S.C. § 405(g) seeking review of the denial of supplemental security income benefits.
STANDARD OF REVIEW	The court may set aside the Commissioner's decision only if it is unsupported by substantial evidence or based on legal error. The court must consider the entire record, including evidence supporting and detracting from the Commissioner's conclusions, and uphold the decision if the evidence permits more than one rational interpretation.
PRECEDENTIAL VALUE	unpublished
PARTIES	Lashaw O. v. Commissioner of Social Security

TOPICS

- judicial review of agency action
- administrative law
- agency adjudication
- exhaustion of remedies

PRACTICE AREAS

Social Security disability

administrative law

judicial review of agency action

civil procedure

QUESTIONS PRESENTED

1. Whether the ALJ properly evaluated the supportability and consistency of the medical opinions of Dr. Juliane Tran and state-agency physician Dr. D. Subin.
2. Whether the ALJ provided specific, clear, and convincing reasons supported by substantial evidence for discounting Plaintiff's subjective symptom testimony.
3. Whether the ALJ satisfied the step-five burden to establish, through vocational-expert testimony reconciled with the Dictionary of Occupational Titles, that Plaintiff could perform work existing in significant numbers in the national economy.
4. Whether remand for further proceedings or an immediate award of benefits was appropriate.

HOLDINGS

1. The ALJ's finding that Dr. Tran's and Dr. Subin's opinions were not persuasive was not supported by substantial evidence because the ALJ failed to adequately address both the abnormal findings and supporting explanations underlying the opinions and improperly relied on selected normal findings.
2. The ALJ failed to provide sufficient specific, clear, and convincing reasons supported by substantial evidence to discount Plaintiff's subjective symptom testimony.
3. The ALJ erred by failing to investigate and reconcile an obvious or apparent conflict between the vocational expert's testimony that Plaintiff could perform 80 percent of housekeeper jobs and the Dictionary of Occupational Titles' description of the job's standing and walking tasks in light of Plaintiff's sit/stand limitation.
4. The ALJ could not rely on the mail clerk position because Plaintiff's limitation to simple, routine tasks precluded a job requiring Level 3 reasoning, and the 6,800 office-helper jobs remaining after discounting the other positions were insufficient to establish a significant number of jobs in the national economy.
5. Remand for further administrative proceedings, rather than an immediate award of benefits, was appropriate because the evidence did not conclusively establish disability and the identified defects could be remedied on remand.

KEY QUOTATIONS

"ALJs must review the whole record; they cannot cherry-pick evidence to support their findings." (at 12)

"When the ALJ finds that a claimant is not malingering, 'the ALJ can reject the claimant's testimony about the severity of her symptoms only by offering specific, clear and convincing reasons for doing so.'" (at 16)

"If the VE's opinion that the claimant 'is able to work conflicts with, or seems to conflict with, the requirements listed in the [DOT], then the ALJ must ask the expert to reconcile the conflict before relying on the expert to decide if the claimant is disabled.'" (at 23)

FACTUAL BACKGROUND

Plaintiff, born in 1971, last worked in 2005 and alleged disability based on injuries and impairments arising from two motor-vehicle accidents, including brain injuries, spinal and lower-extremity conditions, and a hip replacement. She applied for supplemental security income in June 2020, later amending her alleged onset date to August 6, 2021. The ALJ found severe physical and mental impairments but determined that Plaintiff retained the residual functional capacity for restricted light work and could perform jobs identified by a vocational expert.

PROCEDURAL HISTORY

The ALJ denied Plaintiff's supplemental security income claim after applying the five-step sequential evaluation and finding that she could perform several occupations. The Appeals Council denied review on June 18, 2024. Plaintiff then filed this action, moved to remand, and the magistrate judge recommended reversing the Commissioner's decision and remanding for further administrative proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

On remand, the Commissioner should reevaluate the medical opinions and Plaintiff's subjective symptom testimony, reconsider the step-five determination, inquire into and resolve the apparent conflict between the vocational expert's testimony and the DOT concerning the housekeeper position, and explain the resolution in the decision.

CASES CITED

- Tackett v. Apfel, 180 F.3d 1094, 1098-1100 (9th Cir. 1999)
- Ferguson v. O'Malley, 95 F.4th 1194, 1199-1200 (9th Cir. 2024)
- Sandgathe v. Chater, 108 F.3d 978, 980 (9th Cir. 1997)
- Andrews v. Shalala, 53 F.3d 1035, 1039 (9th Cir. 1995)
- Biestek v. Berryhill, 587 U.S. 97, 103 (2019)
- Desrosiers v. Secretary of Health & Human Services, 846 F.2d 573, 576 (9th Cir. 1988)
- Burch v. Barnhart, 400 F.3d 676, 679 (9th Cir. 2005)
- Ford v. Saul, 950 F.3d 1141, 1154 (9th Cir. 2020)
- Woods v. Kijakazi, 32 F.4th 785, 792 (9th Cir. 2022)
- Ghanim v. Colvin, 763 F.3d 1154, 1164 (9th Cir. 2014)
- Bostwick v. Colvin, 2015 WL 12532350, at *2 (S.D. Cal. Mar. 3, 2015)
- Holohan v. Massanari, 246 F.3d 1195, 1207 (9th Cir. 2001)
- Tommasetti v. Astrue, 533 F.3d 1035, 1038 (9th Cir. 2008)
- Garrison v. Colvin, 759 F.3d 995, 1014-15 (9th Cir. 2014)

- Lambert v. Saul, 980 F.3d 1266, 1277 (9th Cir. 2020)
- Treichler v. Commissioner, 775 F.3d 1090, 1102 (9th Cir. 2014)
- Smartt v. Kijakazi, 53 F.4th 489, 499 (9th Cir. 2022)
- Burrell v. Colvin, 775 F.3d 1133, 1138 (9th Cir. 2014)
- Robbins v. Social Security Administration, 466 F.3d 880, 883 (9th Cir. 2006)
- Lingenfelter v. Astrue, 504 F.3d 1028, 1040 (9th Cir. 2007)
- Bogner v. Commissioner, 2023 WL 4734120, at *7 (D. Ariz. July 25, 2023)
- Orn v. Astrue, 495 F.3d 625, 639 (9th Cir. 2007)
- Smith v. Kijakazi, 14 F.4th 1108, 1114 (9th Cir. 2021)
- Vertigan v. Halter, 260 F.3d 1044, 1050 (9th Cir. 2001)
- Molina v. Astrue, 674 F.3d 1104, 1113 (9th Cir. 2012)
- Zavalin v. Colvin, 778 F.3d 842, 845-47 (9th Cir. 2015)
- Gutierrez v. Colvin, 844 F.3d 804, 807-08 (9th Cir. 2016)
- Lamear v. Berryhill, 865 F.3d 1201, 1205-06 (9th Cir. 2017)
- Meanel v. Apfel, 172 F.3d 1111, 1115 (9th Cir. 1999)
- Shaibi v. Berryhill, 883 F.3d 1102, 1103, 1109 (9th Cir. 2017)
- Massachi v. Astrue, 486 F.3d 1149, 1153 (9th Cir. 2007)
- Moore v. Colvin, 769 F.3d 987, 990 (8th Cir. 2014)
- Dewey v. Colvin, 650 F. App'x 512, 514 (9th Cir. 2016)
- Coleman v. Astrue, 423 F. App'x 754, 756 (9th Cir. 2011)
- Buckner-Larkin v. Astrue, 450 F. App'x 626, 628-29 (9th Cir. 2011)
- Wester v. Colvin, 2015 WL 4608139, at *5 (C.D. Cal. July 31, 2015)
- Beltran v. Astrue, 700 F.3d 386, 389 (9th Cir. 2012)
- Gutierrez v. Commissioner, 740 F.3d 519, 528-29 (9th Cir. 2014)
- Randazzo v. Berryhill, 725 F. App'x 446, 448 (9th Cir. 2017)
- De Rivera v. Berryhill, 710 F. App'x 768, 769 (9th Cir. 2018)
- Brown-Hunter v. Colvin, 806 F.3d 487, 495 (9th Cir. 2015)
- Lewin v. Schweiker, 654 F.2d 631, 635 (9th Cir. 1981)
- Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998)

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