

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

Tennance B. v. Frank Bisignano

No. 1:25-CV-3124-TOR (E.D. Wash. Jan. 30, 2026) · No. 1:25-CV-3124-TOR · Decided January 30, 2026

OPINION

1 FILED IN THE 2 U.S. DISTRICT COURT EASTERN DISTRICT OF WASHINGTON Jan 30,
2026 3 SEAN F. MCAVOY, CLERK 4 5 6 UNITED STATES DISTRICT COURT EASTERN
DISTRICT OF WASHINGTON 7 8 TENNANCE B., NO. 1:25-CV-3124-TOR 9 Plaintiff,
ORDER OF REVERSAL AND 10 v. REMAND 11 FRANK BISIGNANO, Commissioner of
Social Security, 12 Defendant. 13 14 BEFORE THE COURT is Plaintiff's Motion for judicial
review of 15 Defendant's denial of his application for Title XVI under the Social Security Act 16
(ECF No. 9).

This matter was submitted for consideration without oral argument. 17 The Court has reviewed
the record and files herein and is fully informed. For the 18 reasons discussed below,
Commissioner's denial of Plaintiff's application for 19 benefits under Title XVI of the Social
Security Act is REVERSED and the matter 20 is REMANDED for further proceedings. 1
JURISDICTION 2 The Court has jurisdiction over this case pursuant to 42 U.S.C. §§ 405(g), 3
1383(C)(3).

4 STANDARD OF REVIEW 5 It is the administrative law judge's (ALJ) job to "determine
credibility, 6 resolve conflicts in the testimony, and resolve ambiguities in the record." Lambert 7
v. Saul, 980 F.3d 1266, 1277 (9th Cir. 2020) (quoting Treichler v. Comm'r of Soc. 8 Sec. Admin.,
775 F.3d 1090, 1098 (9th Cir. 2014)).

The Court will affirm the 9 Commissioner's decision to deny benefits unless it "is not supported
by substantial 10 evidence or is based on legal error." Lambert, 980 F.3d at 1277 (quoting 11
Treichler., 775 F.3d at 1098) (internal quotations omitted).

On that note, it is 12 important for the ALJ to provide sufficient reasons for the court to review the
basis 13 of an administrative order and to identify where in the record those reasons are 14
reflected. Id. 15 The Court reviews the agency's findings to determine whether they are 16
supported with substantial evidence. Biestek v. Berryhill, 587 U.S. 97, 99 (2019); 17 42 U.S.C. §
405(g).

In this context, the threshold is not high. Biestek, 587 U.S. at 18 103. Substantial evidence is
present when there is "more than a mere scintilla." 19 Biestek, 587 U.S. at 103. In other words,
"such relevant evidence as a reasonable 20 1 mind might accept as adequate to support a

conclusion.” *Biestek*, 587 U.S. at 103 2 (quoting *Consol. Edison Co. of New York v. N.L.R.B.*, 305 U.S. 197, 229 (1938)).

3 FIVE STEP SEQUENTIAL EVALUATION PROCESS 4 The Commissioner uses a five-step sequential process to decide whether a 5 claimant is considered disabled. 20 C.F.R. § 416.920(a) (1). The Commissioner 6 considers all evidence in the record to make this determination. 20 C.F.R. § 7 416.920(a)(3). Disability is defined “as the inability to do any substantial gainful 8 activity by reason of any medically determinable physical or mental impairment 9 which can be expected to result in death or which has lasted or can be expected to 10 last for a continuous period of not less than 12 months.” 20 C.F.R. § 416.905(a).

11 This requires a severe impairment that makes the claimant unable to complete the 12 claimant’s past relevant work or any other substantial gainful work. 20 C.F.R. § 13 416.905(a). 14 At each step, the Commissioner may find a claimant either not disabled or 15 disabled. 20 C.F.R. § 416.920(a)(4). If the claimant is found disabled, then the 16 process stops, and the determination is made.

20 C.F.R. § 416.920(a)(4). 17 However, step three to four, the Commissioner assesses residual function capacity 18 (“RFC”). *Id.* Then steps four and five the Commissioner evaluates the claimant’s 19 claim. *Id.* 20 At step one, the Commissioner considers the claimant’s work activity and if 1 the Commissioner decides that the claimant is doing substantial gainful activity, 2 then the Commissioner will find the claimant is not disabled.

20 C.F.R. § 3 416.920(a)(4)(i). Substantial gainful activity is both substantial and gainful work 4 activity. 20 C.F.R. § 416.972. Substantial work activity means “doing significant 5 physical or mental activities” and may be done on a part-time basis, with less pay, 6 or less responsibility than before. 20 C.F.R. § 416.972(a). Gainful work activity is 7 work done for pay or profit even if the profit is not realized.

20 C.F.R. § 8 416.972(b). Put together, “[s]ubstantial gainful activity means work that—(a) 9 [i]nvolves doing significant and productive physical or mental duties; and (b) [i]s 10 done (or intended) for pay or profit.” 20 C.F.R. § 416.910. 11 At step two, the Commissioner considers the claimant’s medical severity of 12 the claimant’s impairment(s). 20 C.F.R. § 416.920(a)(4)(ii).

If the claimant does 13 not have either a physical or mental impairment that is severely medically 14 determinable, or a combination of impairments satisfying the requirements the 15 Commissioner will deem the claimant as not disabled. 20 C.F.R. § 16 416.920(a)(4)(ii). 17 At step three, the Commissioner continues to consider the claimant’s 18 medical severity of claimant’s impairment.

20 C.F.R. § 416.920(a)(4)(iii). If the 19 claimant falls under one of the listings in appendix 1, fulfills this subpart, and the 20 durational requirement, then the Commissioner will determine the

claimant as 1 disabled. 20 C.F.R. § 416.920(a)(4)(iii). 2 At step four, the Commissioner shifts to address the claimant's RFC and 3 work experience to see whether the claimant can make an adjustment to other 4 work.

20 C.F.R. § 416.920(a)(4)(iv). If the Commissioner decides that the 5 claimant can still complete past relevant work, then the Commissioner rules the 6 claimant as not disabled. 20 C.F.R. § 416.920(a)(4)(iv). 7 At step five, the Commissioner continues to review the claimant's residual 8 functional capacity with the claimant's age, education, and work experience to 9 settle on any possible adjustments to other work.

20 C.F.R. § 416.920(a)(4)(v). If 10 this is possible, then the Commissioner will rule that the claimant is not disabled. 11 However, if the Commissioner establishes the opposite, then the claimant is 12 deemed as disabled. 20 C.F.R. § 416.920(a)(4)(v). 13 Once a claimant proves that: "(1) that she is not presently engaged in a 14 substantial gainful activity; (2) that her disability is severe, and (3) that her 15 impairment meets or equals one of the specific impairments described in the 16 regulations", then the claimant must be found disabled.

Hoopai v. Astrue, 499 17 F.3d 1071, 1074 (9th Cir. 2007) (quoting *Thomas v. Barnhart*, 278 F.3d 947, 955 18 (9th Cir. 2002)). However, if the stated impairment does not meet the requirement 19 listed in the regulations, the claimant may "still establish a prima facie case of 20 disability by proving at step four that 'in addition to the first two requirements,...

1 she is not able to perform any work that she has done in the past.'" *Hoopai*, 499 2 F.3d at 1074 (quoting *Thomas*, 278 F.3d at 955). After the claimant establishes 3 their prima facie case at step five, the burden shifts to the agency to prove that "the 4 claimant can perform a significant number of other jobs in the national economy." 5 *Hoopai*, 499 F.3d at 1074–75 (quoting *Thomas*, 278 F.3d at 955).

6 ALJ FINDINGS 7 Plaintiff has not worked since 2019. Tr. 19. Therefore, at step one, the ALJ 8 agreed that Plaintiff did not work at a level of substantial gainful activity since 9 October 27, 2021. Tr. 19. 10 At step two, the ALJ determined that Plaintiff had severe impairments 11 including generalized anxiety disorder ("GAD"), major depressive disorder 12 ("MDD"), attention deficit hyperactivity disorder ("ADHD"), personality disorder, 13 alcohol and stimulant disorder and cannabis abuse disorder.

Tr. 19. The ALJ 14 found impairments stemming from the lasting effects of Bell's palsy, prostatitis 15 and syphilis. Tr. 19. The ALJ did not find these impairments severe. *Id.* 16 At step three, the ALJ found that Plaintiff did not have either an impairment 17 or combination of impairments that equal the severity required in 20 CFR Part 404, 18 Subpart P, Appendix 1.

Tr. 20. For Plaintiff's ability to understand, remember and 19 apply information, the ALJ found that this was a mild limitation. Tr. 20. 20 At step four, the ALJ found that Plaintiff had the residual

functional capacity 1 to perform a full range of work at all exertional levels but with specific limitations. 2 Tr. 22. These limitations include that Plaintiff cannot perform repetitive routine 3 simple tasks at a production pace and can only have incidental contact with public 4 and occasional interactions with supervisors and coworkers.

Tr. 22. Furthermore, 5 Plaintiff was deemed unable to perform any past relevant work. Tr. 26. 6 However, the ALJ determined that it was reasonable that the medical 7 conditions could cause the alleged symptoms. Tr. 23. Nevertheless, the ALJ 8 determined that Plaintiff's "statements concerning the intensity, persistence and 9 limiting effects of these symptoms are not entirely consistent with the medical 10 evidence and other evidence in the record." Tr.

23. 11 At stage five, after reviewing Plaintiff's age, education, work experience and 12 RFC, the ALJ determined that there are existing jobs in significant numbers in this 13 economy that Plaintiff can perform. Tr. 26-27.

For example, the ALJ suggests 14 jobs including floor waxer, lab equipment cleaner and router. Tr. 27. 15 ISSUES 16 I. Whether the ALJ reversibly erred when they rejected Plaintiff's symptom testimony. 17 II. Whether the ALJ reversibly erred by not properly assessing the 18 medical opinions. 19 III. Whether the ALJ reversibly erred when they failed to consider all medical opinions in the record.

20 Plaintiff requests that if the requirements for the credit-as-true rule are met, 1 that this case be remanded for benefits. ECF No. 9 at 2. 2 DISCUSSION 3 I. ALJ did not err when they rejected Plaintiff's symptom testimony 4 with specific, clear and convincing reasons that were supported by 5 substantial evidence. 6 "'The credibility determination is exclusively the ALJ's to make,' and '[w]e 7 are constrained to review the reasons the ALJ asserts.'" *Lambert v. Saul*, 980 F.3d 8 1266, 1278 (9th Cir.

2020) (quoting *Brown-Hunter v. Colvin*, 806 F.3d 487, 494 9 (9th Cir. 2015)) (quotations and emphasis omitted). When the ALJ determines the 10 credibility of a claimant's subjective testimony, the ALJ uses a two-step process. 11 *Vasquez v. Astrue*, 572 F.3d 586, 591 (9th Cir. 2009).

The first step requires the 12 ALJ to "determine whether the claimant has presented objective medical evidence 13 of an underlying impairment which could reasonably be expected to produce the 14 pain or other symptoms alleged." *Vasquez*, 572 F.3d at 591 (quoting *Lingenfelter 15 v. Astrue*, 504 F.3d 1028, 1035–36 (9th Cir. 2007)).

The claimant only needs to 16 "show that it could reasonably have caused some degree of the symptom." 17 *Vasquez*, 572 F.3d at 591 (quoting *Lingenfelter*, 504 F.3d at 1035–36). 18 The second step states when the ALJ 19 determines that a claimant for Social Security benefits is not malingering and has provided objective medical evidence of an 20 underlying impairment which

might reasonably produce the pain or other symptoms she alleges, the ALJ may reject the claimant's testimony about the severity of those symptoms only by providing specific, clear, and convincing reasons for doing so.

² ³ Lambert v. Saul, 980 F.3d 1266, 1277 (9th Cir. 2020) (quoting Brown-Hunter v. ⁴ Colvin, 806 F.3d 487, 488–89 (9th Cir. 2015)) (citations omitted). In pursuant of ⁵ this, the ALJ must “specifically identify the testimony [from a claimant] she or he ⁶ finds not to be credible and... explain what evidence undermines that testimony.” ⁷ Lambert, 980 F.3d at 1277 (quoting Treichler v. Comm’r of Soc.

Sec. Admin., 775 ⁸ F.3d 1090, 1102 (9th Cir. 2014)) (citations omitted). Determining the credibility ⁹ of a claimant’s testimony about the severity of symptoms allows considerations ¹⁰ including things such as: ¹¹ (1) ordinary techniques of credibility evaluation, such as the claimant's reputation for lying, prior inconsistent statements concerning the ¹² symptoms, and other testimony by the claimant that appears less than candid; (2) unexplained or inadequately explained failure to seek ¹³ treatment or to follow a prescribed course of treatment; and (3) the claimant's daily activities.

¹⁴ ¹⁵ Smolen v. Chater, 80 F.3d 1273, 1284 (9th Cir. 1996). However, “[c]ontradiction ¹⁶ with the medical record is a sufficient basis for rejecting the claimant's subjective ¹⁷ testimony.” Carmickle v. Comm'r, Soc. Sec. Admin., 533 F.3d 1155, 1161 (9th Cir. ¹⁸ 2008); Smartt v. Kijakazi, 53 F.4th 489, 499 (9th Cir. 2022). ¹⁹ The Court will not reverse for errors that are harmless.

Molina v. Astrue, 674 ²⁰ F.3d 1104, 1117 (9th Cir. 2012). An error is harmless if it is “inconsequential to ¹ the ultimate nondisability determination.” Molina, 674 F.3d at 1115 (quoting ² Carmickle, 533 F.3d at 1162).

To effectuate this, the Court reviews the record as a ³ whole to determine whether the error altered the result of the case. Molina, 674 ⁴ F.3d at 1115. ⁵ Plaintiff argues that that the ALJ did not meet the standard for providing ⁶ specific, clear and convincing reasons. ECF No. ⁹ at 4. Plaintiff argues that the ⁷ ALJ ignored that his improvement was not sustained.

ECF No. ⁹ at 5. In support, ⁸ Plaintiff refers to Plaintiff’s inpatient dual treatment program reaching over several ⁹ months in January 2022. Id. Furthermore, Plaintiff alleges that the ALJ pointing ¹⁰ to two visits does not provide clear and convincing reasons for rejecting Plaintiff’s ¹¹ testimony when the ALJ ignores evidence that contradicts this. ECF No. ⁹ at 7.

¹² As a result, Plaintiff alleges the ALJ ignored evidence against the ALJ’s findings ¹³ and wrongfully disregarded Plaintiff’s testimony. ECF No. ⁹ at 3-9. ¹⁴ Defendant states that Plaintiff’s subjective claims of symptoms are ¹⁵ insufficient, and in fact, the ALJ is barred from granting

benefits on those alone. 16 ECF No. 11 at 2. Defendant states that the ALJ did acknowledge Plaintiff's 17 testimony and incorporated these limitations in Plaintiff's RFC.

Id. However, the 18 objective medical evidence was not consistent with Plaintiff's claims of "disabling 19 symptoms and limitations." ECF No. 11 at 4. 20 There was no finding of malingering. The ALJ found that Plaintiff's claims 1 are not fully consistent with the medical evidence. Tr. 23. This is a sufficient 2 reason to reject Plaintiff's testimony. *Smartt v. Kijakazi*, 53 F.4th 489, 499 (9th 3 Cir.

2022) (stating inconsistency or contradiction with a medical record is a 4 sufficient reason to reject a plaintiff's testimony). 5 Essentially, Plaintiff alleges that his improvement was not sustained, 6 whereas Defendant agrees but argues that the failure for sustained improvement 7 was because of Plaintiff's failure to adhere to treatment and moments of relapse.

8 ECF Nos. 9 at 7-9; 11 at 5-6. In other words, the ALJ properly analyzed Plaintiff's 9 testimony because it recognized these moments with present symptoms and 10 provided reasons for discounting it. Tr. 23-24. For example, Plaintiff supports his 11 argument by referring to evidence of present symptoms during a November 2023 12 visit. ECF No. 9 at 7-8.

The ALJ references this visit stating that Plaintiff 13 "indicated that he was doing well and indicated his mood was no longer hopeless." 14 Tr. 23. Additionally, the ALJ states that he had "intact orientation, fair memory, 15 euthymic mood, and no indications of psychosis." Tr. 23-24.

However, the ALJ 16 later recognizes "minimal symptoms" and "mostly benign signs on mental status 17 examination" when Plaintiff was compliant with his treatment. Tr. 25. 18 The ALJ continues referencing stated periods of improvement while also 19 stating that this period had times of relapse or failure to stay compliant with 20 treatment. Tr. 24.

The ALJ stated "[a]ccordingly, the above medical evidence 1 demonstrates that the claimant has experienced improvement when compliant with 2 his treatment regimen and while abstaining from substance abuse." Tr. 24; 3 *Wellington v. Berryhill*, 878 F.3d 867, 876 (9th Cir. 2017) ("Such evidence of 4 medical treatment successfully relieving symptoms can undermine a claim of 5 disability.") (citing See 20 C.F.R. §416.920a(c)(1)).

Even more, the ALJ still 6 recognized difficulties during the periods of failed compliance or relapse. Tr. 24. 7 The ALJ recognized "the increased symptoms that the claimant experiences when 8 abusing illicit substances and/or when noncompliant with his treatment regimen." 9 Tr. 24. Even more, in response to Plaintiff's increased symptoms, the ALJ noted 10 that Plaintiff "would be limited to simple, routine, and repetitive tasks" 11 "characterized by limited social interactions." Tr.

24. 12 Furthermore, the ALJ continued to provide clear and convincing reasons to 13 discount Plaintiff's testimony with reference to specific parts of the testimony. Tr. 14 23-25. Defendant states that Plaintiff recognized his ongoing depression 15 symptoms, but alleged that he went to the library, was reading a book series and 16 denied ideations of suicide.

Tr. 24. Even more, Defendant noted that Plaintiff 17 lived alone and did not have a license, however, he did go to the public library, 18 used his bike or public transportation to engage in the community, plays video 19 games and goes to the theater with his mother. Tr. 24. 20 Accordingly, the ALJ presented substantial evidence for his decisions and 1 meets the standard for clear and convincing reasons.

The ALJ may discount 2 testimony or evidence during times for failure to comply with treatment and where 3 Plaintiff's daily activities suggest otherwise. *Smartt v. Kijakazi*, 53 F.4th 489, 499 4 (9th Cir. 2022) ("Even if the claimant experiences some difficulty or pain, [his] 5 daily activities 'may be grounds for discrediting the claimant's testimony to the 6 extent that they contradict claims of a totally debilitating impairment.'") (quoting 7 *Molina*, 674 F.3d at 1113); *Tommasetti v. Astrue*, 533 F.3d 1035, 1039 (9th Cir.

8 2008) (stating that "unexplained or inadequately explained failure to seek 9 treatment or to follow a prescribed course of treatment; and (3) the claimant's daily 10 activities" are relevant used in deciding a claimant's credibility). While Plaintiff 11 alleges a different interpretation, "[w]here evidence is susceptible to more than one 12 rational interpretation, it is the ALJ's conclusion that must be upheld." *Woods v. 13 Kijakazi*, 32 F.4th 785, 788 (9th Cir.

2022) (quoting *Burch v. Barnhart*, 400 F.3d 14 676, 679 (9th Cir. 2005)). As a result, there is no legal error identified. 15 II. The ALJ properly rejected the medical opinions. 16 Under 20 C.F.R. § 416.920c, the ALJ's guidelines for how to consider and 17 articulate medical opinions and prior administrative medical findings are 18 established.

The new regulations focus on supportability and consistency when 19 evaluating the persuasiveness of an opinion. *Woods*, 32 F.4th at 791. 20 Supportability "means the extent to which a medical source supports the medical 1 opinion by explaining the 'relevant... objective medical evidence.'" *Woods*, 32 2 F.4th at 791-92 (quoting 20 C.F.R. § 404.1520c(c)(1)).

On the other hand, 3 "consistency means the extent to which a medical opinion is 'consistent... with the 4 evidence from other medical sources and nonmedical sources in the claim.'" 5 *Woods*, 32 F.4th at 792 (quoting 20 C.F.R. § 404.1520c(c)(2)). While these refer 6 to 20 C.F.R. § 404.1520c, the language is essentially identical for 20 C.F.R. § 7 416.920c. Essentially, the ALJ must explain the persuasiveness of all the medical 8 opinions from each physician or possible other source.

Woods, 32 F.4th at 792. 9 Additionally, “an ALJ cannot reject an examining or treating doctor's opinion as 10 unsupported or inconsistent without providing an explanation supported by 11 substantial evidence.” Woods, 32 F.4th at 792. 12 For the durational requirements, 20 C.F.R. § 416.909 states that the 13 impairment must be expected to result in death, or in the alternative, “it must have 14 lasted or must be expected to last for a continuous period of at least 12 months.” 15 20 C.F.R. § 416.909.

16 a. Thomas Genthe, Ph.D. 17 The ALJ found Thomas Genthe’s opinion from August 31, 2021, not 18 persuasive regarding particular limitations of Plaintiff because it did not meet the 19 durational threshold as listed under 20 C.F.R. § 416.909. Tr. 25. Nevertheless, the 20 ALJ did find his opinion persuasive about the expected duration of his 1 impairments. Tr.

25. The ALJ states Plaintiff’s “problems should not last longer 2 than twelve months” because the objective medical evidence shows improvement 3 when the Plaintiff receives and participates in “mental health medications, 4 counseling, and other behavioral treatment. Tr. 25. 5 Plaintiff argues that the ALJ’s finding that these limitations would last 9-12 6 months and did not meet the durational requirement was error because the 7 durational threshold requires them to last for at least 12 months not longer.

8 Plaintiff continues that Genthe’s opinion of improvement “no less than 9-12 9 months” is at least 12 months and it is a floor not a ceiling. ECF No. 9 at 13-14; 10 Tr. 1407. Plaintiff continues that the ALJ did not cite to the record about evidence 11 that improvement followed. ECF No. 9 at 14.

In fact, the opposite is true from Dr. 12 Morgan’s August 2023 opinion. Id. 13 The ALJ properly rejected Thomas Genthe’s opinion. The ALJ stated why 14 the opinion was not persuasive because it did not meet durational requirements 15 provided in 20 C.F.R. § 416.909. Tr. 25. Furthermore, the ALJ did find Genthe’s 16 partly persuasive about Plaintiff’s problems likely not lasting more than 12 17 months.

Tr. 25. Regarding the ALJ’s finding that it did not meet the durational 18 requirement, it is a reasonable interpretation because it could reach 12 months but 19 also could not, therefore, not meeting the requirement. Woods v. Kijakazi, 32 F.4th 20 785, 788 (9th Cir. 2022) (stating the ALJ’s reason must be upheld when there is 1 one or more possible reasonable interpretation).

Therefore, the low burden for 2 substantial evidence is met. 3 The ALJ cites to Genthe’s opinion but not where the medical evidence 4 established improvement after treatment. Tr. 25. However, as previously 5 discussed, the ALJ referenced times where he was receiving treatment and reported 6 minimal symptoms. Tr. 25. While the Court cannot assume the ALJ’s decision 7 and the ALJ should cite continuously, the Court recognizes this conclusion was 8 made previously with citations in the ALJ’s findings.

Tr. 25. Accordingly, this 9 would not result in a legal error and even if it did, it would be harmless in the view 10 of the entire record. Especially considering the ALJ made the same conclusion 11 earlier in his report and provided appropriate citations. Tr. 24-25. 12 Furthermore, Plaintiff argues that the improvement did not continue and 13 extended past 12 months based on Dr. Morgen's August 2023 opinion.

ECF No. 9 14 at 14. However, the ALJ did not find this opinion persuasive for the reasons 15 discussed below. Tr. 25. 16 b. David T. Morgen, Ph.D. Consultant 17 Plaintiff states that the ALJ's reasons for discounting Morgen's opinion 18 were erroneous. ECF No. 9 at 16. Plaintiff states that reflecting minimal 19 symptoms when following treatment, and the support of other medical records 20 "does not reflect [claimant]'s general presentation." ECF No. 9 at 16.

Plaintiff 1 states the ALJ's second reason for rejecting Morgen's opinion was not supported 2 by an evidentiary basis. ECF No. 9 at 18-19. 3 Plaintiff states that the ALJ's reliance on two visit notes are not sufficient 4 reasons because Plaintiff entered an inpatient treatment for mental health and 5 substance abuse. ECF No. 9 at 17.

However, as previously discussed, the ALJ 6 recognized limitations during Plaintiff's failure to continue treatment or relapse 7 and this fact may still be discounted for the same reason. *Wellington v. Berryhill*, 8 878 F.3d 867, 876 (9th Cir. 2017) ("Such evidence of medical treatment 9 successfully relieving symptoms can undermine a claim of disability.") (citing 20 10 C.F.R. § 416.920a(c)(1)).

11 The ALJ found David T. Morgen's opinion unpersuasive for the period since 12 October 27, 2021. Tr. 25. Additionally, the ALJ found that when Plaintiff was 13 following his treatment, he showed only minimal symptoms during a mental 14 examination. TR. 25.

Moreover, the ALJ found Morgen's opinion unpersuasive 15 because he did not have access to the medical records that were available to the 16 ALJ and DDS and instead relied on Genthe's report and Plaintiff's subjective 17 testimony. Tr. 25. 18 As stated previously, the ALJ must discuss supportability and consistency 19 factors.

The ALJ's reasoning is supported by substantial evidence and the ALJ 20 provided reasons for not finding Morgen's opinion persuasive. Plaintiff showed 1 limited symptoms when receiving treatment. Tr. 25. The ALJ is allowed to 2 discount evidence when a claimant is not following treatment plans where 3 treatment has been successful. See *Wellington v. Berryhill*, 878 F.3d 867, 876 (9th 4 Cir.

2017). 5 Additionally, the ALJ properly rejected the medical opinion for relying on 6 Plaintiff's discounted subjective testimony. Tr. 25. Furthermore, the reliance on 7 the Plaintiff's subjective testimony and Genthe's report was consistent with 20 8 C.F.R. § 416.920c(c)(1) in evaluating the supportability factor. ECF No. 11 at 18. 9 This is a reasonable interpretation.

10 For these reasons, the ALJ's decision is supported by substantial evidence 11 and must not be disrupted simply because Plaintiff provides a different 12 interpretation. Again, although additional references to the record and more 13 specific reasoning would have been ideal, the ALJ did not fail to provide sufficient 14 reasoning.

Therefore, the Plaintiff has not identified legal errors. Most of the 15 arguments Plaintiff makes regarding his alleged failure to improve, despite the 16 ALJ's references to evidence that shows he had improved, are based on Plaintiff's 17 subjective reports to physician's rather than objective medical evidence. 18 III.

The ALJ erred when they failed to consider all medical opinions 19 in the record. 20 Plaintiff alleges the ALJ did not consider all medical evidence. ECF No. 9 1 at 20. Plaintiff states that the ALJ did not consider the visit notes from Dick Moen, 2 M.S.W., and that it is considered a medical opinion. ECF No. 9 at 20. Defendant 3 does not oppose this. ECF No. 11.

However, Defendant states that the ALJ 4 considered these notes, found them unpersuasive, and therefore was not required to 5 address them. ECF No. 11 at 18. In further support, Defendant provides that the 6 "statements predate the filing date by almost a decade." ECF No. 11 at 18. 7 Plaintiff responds that this assessment was wrong and a harmful legal error.

ECF 8 No. 12 at 5. 9 Moen's report considers the effect of some of Plaintiff's determined severe 10 limitations such as anxiety and depression. Tr. 19. Moen's first exam from 2010 11 states Plaintiff has anxiety and depression and at times the depression is 12 overwhelming. Tr. 1060. Also, that his anxiety led him to forget what was asked 13 and that he cannot hold a job.

Tr. 1060. 14 Moen's comprehensive healthcare plan from 2011 states Plaintiff was 15 "nervous" and "fidgeting." Tr. 843. Plaintiff started guessing at answers and 16 Moen concluded that his anxiety and depression were not well-controlled. Tr. 843. 17 Furthermore, Moen states that Plaintiff could not "handle the pressure of holding a 18 job." Tr. 843. 19 As the Ninth Circuit clearly stated, "Even under the new regulations, an ALJ 20 cannot reject an examining or treating doctor's opinion as unsupported or 1 inconsistent without providing an explanation supported by substantial evidence." 2 Woods v. Kijakazi, 32 F.4th 785, 792 (9th Cir.

2022). The ALJ is required to 3 "articulate in our determination or decision how persuasive we find all of the 4 medical opinions and all of the prior administrative medical findings in your case 5 record." 20 C.F.R. § 416.920c; See Woods v. Kijakazi, 32 F.4th 785, 792 (9th Cir. 6 2022) (stating a similar conclusion but in reference to 20 C.F.R. § 404.1520c(b)).

7 In Defendant's brief, he explains why the ALJ did not consider Moen's 8 opinion as persuasive, however, the ALJ still had the duty to address whether it 9 was persuasive and explain the supportability and consistency factors. 20 C.F.R. § 10 416.920c. Defendant argues that the ALJ

did not need to address Moen's 11 statements because they were not valuable or persuasive and cites numerous 12 Washington District Court cases.

ECF No. 11 at 18-19. However, in many of 13 these cases, the ALJ's provided insufficient reasons and did not completely 14 exclude the opinion. See *Maia B. v. Comm'r of Soc. Sec.*, 2025 WL 1929132, at *5 15 (W.D. Wash. July 14, 2025); *Sarah E. v. Comm'r of Soc. Sec.*, No. C22-5121-16 MAT, 2022 WL 4315684, at *5 (W.D. Wash. Sept. 19, 2022), *aff'd sub nom.* 17 *Eichenberger v. Kijakazi*, No. 22-35937, 2023 WL 5928483 (9th Cir.

Sept. 12, 18 2023). However, the Court is limited to the ALJ's findings. Without express 19 findings, the Court cannot consider the ALJ's findings for Moen. The Court 20 cannot make a determination because the record is not complete. 1 For those reasons, this is not a harmless error. If "in light of the record- 2 supported reasons supporting the adverse credibility finding we can conclude that 3 the ALJ's error did not 'affect[] the ALJ's conclusion' then the error is harmless." 4 *Carmickle v. Comm'r, Soc.*

Sec. Admin., 533 F.3d 1155, 1168 (9th Cir. 2008) 5 (quoting *Batson v. Comm'r of Soc. Sec. Admin.*, 359 F.3d 1190, 1197 (9th Cir. 6 2004)). Looking at the entire record, it is unclear if this medical opinion would 7 change the ALJ's conclusion because the record is not complete.

The Court cannot 8 rely on findings that are not stated in the ALJ's findings regardless of the 9 persuasiveness of the arguments. *Lambert v. Saul*, 980 F.3d 1266, 1278 (9th Cir. 10 2020) (stating that the ALJ must make the credibility determinations and the Court 11 is limited to the reasons the ALJ provides). 12 The ALJ provided sufficient evidence and an explanation for their denial of 13 most of the issues.

However, after reviewing all the evidence, the failure to 14 address Moen's medical opinion was not harmless because this Court cannot 15 effectively review the record. Review of the medical opinion may affect the 16 analysis. *Dixon v. Saul*, 411 F. Supp. 3d 837, 852 (N.D. Cal. 2019) ("Although the 17 ALJ may still reject these opinions on remand, if he provides specific and 18 legitimate reasons supported by substantial evidence, if they are credited, they 19 could affect the remaining analysis.").

20 If the requirements for the credit-as-true rule are met, Plaintiff requests that 1 this case be remanded for an award of benefits. ECF No. 9 at 2. Remand for 2 immediate award of benefits is appropriate 3 if (1) the ALJ failed to provide legally sufficient reasons for rejecting the evidence; (2) there are no outstanding issues that must be resolved 4 before a determination of disability can be made; and (3) it is clear from the record that the ALJ would be required to find the claimant disabled 5 were such evidence credited.

6 *Benecke v. Barnhart*, 379 F.3d 587, 593 (9th Cir. 2004) (citations omitted). While 7 the ALJ did not provide sufficient reasons for rejecting Moen's medical opinion, 8 and other issues appear to

be resolved, it is not clear that the ALJ would be 9 required to find Plaintiff disabled with the evidence credited. This is only one 10 medical opinion with many other opinions, the Court cannot predict the ALJ's 11 outcome.

Therefore, an order to remand to complete the record is appropriate. 12 Benecke, 379 F.3d at 593 ("Remand for further administrative proceedings is 13 appropriate if enhancement of the record would be useful."). 14 Upon remand, the ALJ shall assess Moen's medical opinion and any other 15 necessary opinions, reassess accordingly, and conduct the sequential evaluation to 16 issue a new decision with sufficient articulated reasons as provided under 20 17 C.F.R. § 416.920c.

18 / 19 / 20 ACCORDINGLY, IT IS HEREBY ORDERED: 2 1. Plaintiff's Opening Brief (ECF No. 9) is GRANTED in part. 3 2. Pursuant to 42 U.S.C. § 405(g), this action is REVERSED and 4 REMANDED to the Commissioner for further proceedings consistent 5 with this Order. 6 The District Court Executive is directed to enter this Order, enter 7|| JUDGMENT for Plaintiff, furnish copies to counsel, and CLOSE the file.

8 DATED January 30, 2026. <> United States District Judge 11 12 13 14 15 16 17 18 19 20