

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA**

Vaughn J. v. Frank Bisignano

Case No. 24cv1124-SBC (S.D. Cal. Sept. 26, 2025) · No. 24cv1124-SBC; 3:24-cv-01124 · Decided September
26, 2025

OPINION

Jackson v. O' Malley

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 VAUGHN J.,¹ Case No.: 24cv1124-SBC 12 Plaintiff,

ORDER RESOLVING JOINT

13 v. MOTION FOR JUDICIAL REVIEW

IN FAVOR OF PLAINTIFF AND

14 FRANK BISIGNANO, Acting Commissioner of Social Security,² REMANDING TO THE

15 COMMISSIONER

Defendant. 16 [ECF No. 21] 17 18 On June 27, 2024, Plaintiff Vaughn J. commenced this action
against Defendant 19 Frank Bisignano, Commissioner of Social Security, for judicial review under
42 U.S.C. § 20 405(g) of a final adverse decision for supplemental security income. (ECF No. 1.)

The 21 Administrative Law Judge (“ALJ”) found that Plaintiff was not disabled and denied 22
Plaintiff’s claim for benefits since June 29, 2021, the date the application was filed. (ECF

23 No. 11 at 40 [Administrative Record “AR”].) On August 8, 2024, Magistrate Judge Valerie

24 E. Torres determined that Plaintiff’s complaint did not survive screening under 28 U.S.C. 25 26

1 The Court refers to Plaintiff using only his first name and last initial pursuant to the 27 Court’s
Civil Local Rules. See S.D. Cal. Civ. R. 7.1(e)(6)(b). 2 Frank Bisignano is now the Commissioner
of Social Security and is automatically 28 1 § 1915(e)(2)(B), and dismissed the complaint with
leave to amend. (ECF No. 8.) That same 2 day, Plaintiff filed an amended complaint, which is the

operative complaint in this case. 3 (ECF No. 9.) 4 Now pending before the Court is the parties’
joint motion for judicial review of the 5 final decision of the Commissioner of Social Security,
filed on January 21, 2025. (ECF No. 6 21.) On February 3, 2025, Plaintiff consented to the
undersigned’s jurisdiction to conduct 7 all proceedings in this case. (ECF No. 22.)³ For the
reasons set forth below, the Court 8 REVERSES the final decision of the Commissioner and
REMANDS this matter for 9 further administrative proceedings consistent with the findings
presented herein.

10 I. PROCEDURAL HISTORY

11 On June 29, 2021, Plaintiff filed an application for supplemental social security 12 benefits, alleging disability beginning June 1, 2020, due to autism and a mental breakdown. 13 (AR at 230-239, 255.) Plaintiff's application was denied on November 24, 2021, and again 14 on reconsideration on February 15, 2022. (Id. at 147-151, 155-160.) On February 28, 2022, 15 Plaintiff submitted a written request for a de novo hearing by an ALJ. (Id. at 161-164.) On 16 December 14, 2022, ALJ Joseph Doyle presided over the hearing. (Id. at 45-80.) Plaintiff 17 appeared by online video, and was not represented by an attorney. (Id. at 47.) Plaintiff, 18 Plaintiff's mother, Anna Romero, and vocational expert, Kent Granat, testified at the 19 hearing. (Id. at 45.) 20 On July 6, 2023, the ALJ issued an unfavorable decision denying Plaintiff's request 21 for disability benefits. (AR at 19-40.) On August 24, 2023, Plaintiff submitted a written 22 request for review to the Appeals Council. (Id. at 226-227.) On May 28, 2024, the Appeals 23 Council denied Plaintiff's request for review. (Id. at 1-4.) Having exhausted all 24 administrative remedies, Plaintiff brought this timely civil action, seeking judicial review 25 pursuant to 42 U.S.C. § 405(g). (See ECF No. 9.) 26 / / / / 27 3 The United States has informed the Court of its general consent to Magistrate Judge 28

1 II. SUMMARY OF THE ALJ'S FINDINGS

2 In rendering his decision, the ALJ followed the Commissioner's five-step sequential 3 evaluation process. See 20 C.F.R. § 416.920; *Tackett v. Apfel*, 180 F.3d 1094, 1098-99 (9th 4 Cir. 1999) (describing five steps).⁴ The ALJ determined at step one that Plaintiff had not 5 engaged in substantial gainful activity since June 29, 2021, the date of his application. (AR 6 at 25.) At step two, the ALJ found that Plaintiff had the following severe impairments: (1) 7 autism spectrum disorder; (2) schizoaffective disorder; (3) generalized anxiety disorder; 8 (4) obesity; and (5) asthma. (Id.) He noted that the record contains some complaints of left 9 shoulder pain, but the ALJ found the record fails to establish a medically determinable 10 impairment because of no imaging of the shoulder, or any substantive treatment. (Id.) He 11 found Plaintiff's gastroesophageal reflux disease non-severe because "the record fails to 12 indicate related symptoms that would have more than minimally interfered with the ability 13 to perform work-related activities for 12-consecutive months." (Id.) For any other 14 impairments alleged within the record, the ALJ found that they were "non-severe or not 15 medically determinable as they have been responsive to treatment, cause no more than 16 minimally vocationally relevant limitations, have not lasted or are not expected to last at a 17 'severe' level for a continuous period of 12 months, are not expected to result in death, or 18 have not been properly diagnosed by an acceptable medical source." (Id.) 19 At step three, the ALJ determined that Plaintiff did not have an impairment or 20 combination of impairments that met or medically equaled a listed impairment⁵. (Id.) 21 Regarding Plaintiff's asthma, the ALJ stated that "the record does not establish the medical 22 23 4 The disability insurance benefits ("DIB") and supplemental security income ("SSI") regulations relevant to this case are virtually identical. Therefore, only the DIB regulations 24 will be cited in the remainder of this order. Parallel SSI regulations are found in 20

C.F.R. 25 §§ 416.900–416.999 and correspond with the last digits of the DIB cite (e.g., 20 C.F.R. § 404.1520 corresponds with 20 C.F.R. § 416.920). 26 5 If the claimant’s impairment or combination of impairments is of a severity to meet or 27 medically equal the criteria of a listing and meets the duration requirement (20 CFR §§ 404.1509 and 416.909), the claimant is deemed disabled. If it does not, the analysis 28 1 signs, symptoms, laboratory findings or degree of functional limitation required . . . and no 2 acceptable medical source . . . has concluded that [it] . . . medically equals a listed 3 impairment.” (Id.) Regarding Plaintiff’s obesity, the ALJ stated that “there is no listing for 4 obesity . . . but [it] has been carefully considered.” (Id.) The ALJ further stated that it has 5 not “resulted in any end-organ damage[,]” and although it may aggravate Plaintiff’s 6 complaints, particularly his asthma impairment, “it does not reasonably appear that the 7 extent of his obesity, even when considered in combination with his other documented 8 impairments, meets or equals a listed impairment or would preclude all work.” (Id. at 26.) 9 Lastly, the ALJ found that Plaintiff’s “mental impairments, considered singly and in 10 combination, do not medically equal the criteria of listings.” (Id.) 11 When a claimant’s impairments, or combination of impairments, do not meet the 12 criteria of a listed impairment, as was the case here, the ALJ next determines the claimant’s 13 residual functional capacity (“RFC”), i.e., the ability to do physical and mental work 14 activities despite the claimant’s impairments. (See AR at 28.) Step four then considers 15 whether the claimant is not disabled because he has the RFC to do past relevant work, and 16 step five looks at the claimant’s ability to do any other work considering his RFC, age, 17 education, and work experience. (Id. at 38-39.) 18 At step four, the ALJ determined that Plaintiff had no relevant past work. (AR at 19 38.) The ALJ concluded, however, that considering Plaintiff’s age, education, work 20 experience and RFC, “there are jobs that exist in significant numbers in the national 21 economy that the claimant can perform.” (Id. at 39.) The ALJ accepted the testimony of 22 the vocational expert, who determined that Plaintiff could perform the requirements of 23 Janitor (D.O.T. 381.687-018), Hand Launderer (D.O.T. 361.684-010), and Laundry Sorter 24 (D.O.T. 369.687-014). (Id. at 39.) 25 In reaching his decision, the ALJ assessed Plaintiff as retaining the RFC to perform 26 a range of medium work as defined in 20 C.F.R. § 416.967(c), with the following 27 limitations: 28 1 [Plaintiff can] have exposure to up to moderate noise levels; could have only occasional exposure to concentrated airborne irritants, such as fumes, odors, 2 dusts, gases and poorly ventilated areas; limited to the performance of simple, 3 routine and repetitive tasks; limited to work in a low-stress environment defined as requiring only occasional decision-making and only occasional 4 changes in work setting; limited to work establishing only production quotas 5 based on end of workday measurements without fast-paced production quotas or assembly line work; and limited to only occasional interaction with co- 6 workers. The claimant should have no interaction with the public but can work 7 in the vicinity of the public. 8 (AR at 28.) 9 The ALJ stated that the RFC assessment was based on “all symptoms and the extent 10 to which these symptoms can reasonably be accepted as consistent with the objective 11 medical evidence and other evidence,

based on the requirements of 20 CFR 416.929 and 12 SSR 16-3p.” (AR at 29.) The ALJ also stated that he considered the medical opinions and 13 prior administrative medical findings in accordance with 20 C.F.R. § 416.920(c). (Id.) 14 Accordingly, the ALJ concluded that Plaintiff had not been under a disability since June 15 29, 2021, the date Plaintiff’s application was filed. (Id. at 40.)

16 III. ISSUE IN DISPUTE

17 The sole issue in dispute is whether the ALJ’s RFC determination is supported by 18 substantial evidence. (See ECF No. 21.) In resolving this question, the Court considers the 19 ALJ’s evaluation of the medical opinions, and whether the ALJ’s duty to develop the record 20 was triggered.

21 IV. STANDARD OF REVIEW

22 On appeal, the Court reviews claims for SSI benefits under Title XVI of the Social 23 Security Act either for an absence of substantial evidence supporting the ALJ’s decision or 24 for legal error. *Andrews v. Shalala*, 53 F.3d 1035, 1039 (9th Cir. 1995). Substantial 25 evidence is “more than a mere scintilla but less than a preponderance” and is “such relevant 26 evidence as a reasonable mind might accept as adequate to support a conclusion.” *Id.* 27 (citing 42 U.S.C. § 405(g)). It is therefore the Court’s duty to review the entire record and 28 determine whether substantial evidence exists to support the ALJ’s findings. *Smolen v. 1 Chater*, 80 F.3d 1273, 1279 (9th Cir. 1996). However, the Court may not make independent 2 findings, it is limited to reviewing the determinations presented by the ALJ in their 3 decision. *Brown-Hunter v. Colvin*, 806 F.3d 487, 492 (9th Cir. 2015) (“[W]e can affirm the 4 agency’s decision to deny benefits only on the grounds invoked by the agency . . .”). If 5 the evidence in the record reasonably supports the ALJ’s decision, the decision will be 6 upheld. *Andrews*, 53 F.3d at 1039-40 (citing *Magallanes v. Bowen*, 881 F.2d 747, 750 (9th

7 Cir. 1989)) (“We must uphold the ALJ’s decision where the evidence is susceptible to more 8 than one rational interpretation.”). The Court may also affirm the ALJ’s decision even if 9 the ALJ committed error, so long as the error is harmless. *Ford v. Saul*, 950 F.3d 1141, 10 1154 (9th Cir. 2020). A harmless error is one that is inconsequential to the ultimate 11 decision, *id.*, or that is not prejudicial to the claimant. *Stout v. Comm’r, Soc. Sec. Admin.*, 12 454 F.3d 1050, 1055 (9th Cir. 2006).

13 V. DISCUSSION

14 A. Whether the ALJ Properly Evaluated the Medical Opinion Evidence 15 Plaintiff contends that the ALJ’s RFC determination is not supported by substantial 16 evidence because the ALJ failed to properly evaluate the medical evidence. (ECF No. 21 17 at 4-8.) Plaintiff argues that the RFC assessment is based on lay opinion since the ALJ 18 improperly rejected the opinions of Dr. Hawkins, Dr. Rozenfeld, Dr. Taylor, and Dr. Kugel, 19 as unpersuasive. (Id.) Accordingly, Plaintiff asserts that the ALJ failed to “adequately 20 explain how he arrived at his RFC assessment.” (Id. at 7.) In response, Defendant maintains 21 that the ALJ properly rejected the

medical opinions, and correctly assessed Plaintiff's RFC. 22 (Id. at 9-15.) 23 Under the new regulations applicable to Plaintiff's claim, the ALJ does not need to 24 give special deference to treating physicians, but instead must evaluate the persuasiveness 25 of each medical opinion according to the factors set out in 20 C.F.R. §§ 404.1520c, 26 416.920c. *Woods v. Kijakazi*, 32 F.4th 785, 791 (9th Cir. 2022). Now, the ALJ must 27 evaluate the persuasiveness of medical source opinions by considering prescribed 28 enumerated factors. 20 C.F.R. §§ 404.1520c(c)(1)-(5); 416.920c(c)(1)-(5). The "most 1 important factors" considered are consistency and supportability. Id. §§ 404.1520c(b)(2); 2 416.920c(b)(2). The regulations describe supportability as: "[t]he more relevant the 3 objective medical evidence and supporting explanations presented by a medical source are 4 to support his or her medical opinion(s) . . . the more persuasive the medical opinion(s) . . 5 . will be." 20 C.F.R. §§ 404.1520c(c)(1), 416.920c(c)(1). Consistency is described as: 6 "[t]he more consistent a medical opinion(s) . . . is with the evidence from other medical 7 sources and nonmedical sources in the claim, the more persuasive the medical opinion(s) . 8 . . will be." 20 C.F.R. §§ 404.1520c(c)(2), 416.920c(c)(2). 9 When the ALJ finds a medical opinion unpersuasive, courts treat this as rejecting the 10 medical opinion. See, e.g., *Woods*, 32 F.4th at 792-94; *Steven R. T. v. Kijakazi*, No. 20-CV- 11 2257-KSC, 2022 WL 2303950, at *12 (S. D. Cal. June 24, 2022). An ALJ cannot reject a 12 medical opinion as unsupported or inconsistent without explaining why, and that 13 explanation must be supported by substantial evidence. *Woods*, 32 F.4th at 792. The ALJ 14 must "articulate ... how persuasive" it finds "all of the medical opinions" from each doctor 15 or other source, 20 C.F.R. § 404.1520c(b), and "explain how [it] considered the 16 supportability and consistency factors" in reaching these findings, id. § 404.1520c(b)(2)." 17 *Woods*, 32 F.4th at 792. Factors that detract from a medical opinion's persuasiveness 18 include extreme evaluations that do not comport with the rest of the evidence on record, 19 opinions that contradict the medical source's records, and "check box form[s]" that contain 20 little or no explanation of their conclusion. *Kitchen v. Kijakazi*, 82 F.4th 732, 740 (9th Cir. 21 2023). 22 Here, the ALJ found the opinions of Dr. Kugel, Dr. Hawkins, Dr. Rozenfeld, and 23 Dr. Taylor, unpersuasive. The Court examines the ALJ's evaluation of the medical 24 opinions below. 25 1. Dr. Kugel 26 In September 2020, Dr. Uri Kugel, a licensed clinical psychologist, performed a 27 psychological evaluation of Plaintiff via telehealth due to the COVID-19 pandemic. (AR 28 at 394-404.) Dr. Kugel observed that Plaintiff's "overall demeanor was disengaged, 1 uninterested, and awkward" during the examination. (Id. at 396.) However, he was 2 "cooperative and respectful[.]" and "showed motivation to perform well but did report 3 anxiety." (Id. at 397.) Dr. Kugel diagnosed Plaintiff with autism spectrum disorder, and 4 found that he displayed severe symptoms, including "poor social understanding and 5 interest, impaired social communication, and difficulty with hyper-focused behavior." (Id. 6 at 402.) Dr. Krugel stated the following regarding Plaintiff's results: 7 As this evaluation was conducted using telehealth services and due to limited internet connectivity, only several subtests were administrable. Therefore, the 8 following results should be taken with caution. It is recommended

that 9 Vaughn's cognitive functioning will be reevaluated when a face-to-face meeting will become possible. Due to limited data, the FSIQ and most WAIS 10 Indexes scores were not calculated. However, limited data suggest overall 11 cognitive performance within the Average to the High Average range. Vaughn performed within the Average range on the VCI. On the Matrix Reasoning 12 subtest which measures fluid reasoning and grasping nonverbal concepts, 13 Vaughn performed within the High Average range. 14 (AR at 400.) 15 Dr. Kugel concluded that, based on the evaluation, prior testing reports, records 16 review, and interviews with Plaintiff and Plaintiff's mother, Plaintiff does not meet the 17 intellectual disability criteria. (AR at 402.) Dr. Kugel also noted the following: 18 [Plaintiff] displayed [s]everely [i]mpaired listening response. He displayed 19 [m]oderately [i]mpaired social emotional understanding, emotional 20 expression and regulation, adaptation to change and restricted interests, fear response, and intellectual response. He displayed [m]ildly [i]mpaired relating 21 to people, body use, object use in play, visual response, touch response, verbal 22 communication, nonverbal communication, and cognitive integration skills. 23 (AR at 402.) Dr. Kugel further noted "significant impairments" in socialization and 24 communication, "maladaptive speech[,] and "hypersensitivity to sensory stimuli and 25 obsessive behavior . . . that often interferes with his functioning." (Id.) 26 The ALJ acknowledged Dr. Kugel's opinion, but found it unpersuasive. (AR at 38.) 27 The ALJ explained that while the opinion suggested "some deficits in the identified areas," 28 1 (Id.) For example, the ALJ noted that terms such as "significant impairments," is not 2 defined as "mild, moderate, marked or extreme," and "poor social understanding, impaired 3 social communication, and difficulty with hyper-focused behavior[,] are not defined in 4 Agency-recognized terms. (Id.) (internal quotations omitted.) The ALJ concluded that 5 "[w]ithout clarity, the opinion statements, albeit accompanied by a narrative evaluation 6 report as attempted support, are too vague and ambiguous to be found consistent with the 7 evidence as a whole." (Id.) 8 a. Consistency & Supportability 9 The ALJ is required to articulate how he considered both the consistency and 10 supportability factors of a medical source's opinion when determining its persuasiveness. 11 Woods, 32 F.4th at 792. Here, the ALJ addressed consistency, finding that Dr. Kugel's 12 opinion was "too vague" to be consistent with the record because it did not define 13 Plaintiff's limitations in Agency-recognized terms. (AR at 38.) The Court, therefore, finds 14 that substantial evidence supports the ALJ's finding that Dr. Kugel's opinion was 15 unpersuasive under the consistency factor. 16 However, the ALJ did not adequately evaluate the supportability factor that affected 17 his analysis of Dr. Kugel's opinion. Although the ALJ noted that Dr. Kugel's opinion was 18 "accompanied by a narrative evaluation report as attempted support," he made no explicit 19 finding as to whether the opinion was supported by objective medical evidence, or why the 20 narrative evaluation report was insufficient. (See AR at 38.) Instead, the ALJ summarized 21 the opinion, and generally stated that it was "too vague and ambiguous" to be consistent 22 with the record. (See id.) The ALJ must explain his reasoning under both the consistency 23 and supportability factors. Woods, 32 F.4th at 792. Accordingly, the Court finds that the 24 ALJ erred

by not sufficiently evaluating the supportability factor in finding Dr. Kugel's 25 opinion unpersuasive. 26 2. Dr. Hawkins & Dr. Rozenfeld 27 Dr. Pamela Hawkins is a state agency medical consultant who reviewed Plaintiff's 28 medical records and performed an initial disability determination evaluation in November 1 2021. (AR at 108-126.) Dr. Hawkins found that Plaintiff was not disabled, noting that his 2 "condition results in some limitations . . . to perform work related activities but does not 3 prevent [Plaintiff] from working." (Id. at 124-125.) She identified two severe impairments: 4 (1) autism spectrum disorder; and (2) depressive, bipolar, and related disorders. (Id. at 116.) 5 Dr. Hawkins further found that Plaintiff's symptoms included "[s]ustained concentration 6 and persistence limitations," "[s]ocial interaction limitations," and "[a]bility to adapt 7 limitations." (Id. at 118.) However, she concluded that Plaintiff was able to understand 8 and remember instructions and procedures, and was capable of "maintain[ing] attention 9 and concentration for at least two hours at a time as required to perform simple tasks, 10 sufficiently to complete an 8 hour day and a 40 hour week." (Id. at 119-121.) 11 Regarding social interaction limitations, Dr. Hawkins found Plaintiff "best suited to 12 a non-public setting. [Plaintiff] can work in proximity with coworkers but not on joint or 13 shared tasks. [Plaintiff] is able to handle occasional supervisory contact." (AR at 122.) She 14 also found Plaintiff to be moderately limited in adapting to changes in work environments, 15 nothing that he would "work best in structured environments with predictable work tasks 16 and with minimal social contacts with others that do not require a great deal of decision 17 making or goal setting." (Id.) 18 Dr. Ellen Rozenfeld, another state agency medical consultant, reviewed Plaintiff's 19 medical records and performed a disability evaluation on reconsideration in February 2022. 20 (AR at 127-146.) Dr. Rozenfeld noted Plaintiff's recent report that his mental condition 21 was "worsening" due to "breakdowns every 2 weeks, sharp pains in chest, excessive 22 thoughts, uncontrollable emotions(anger/sadness)," inability to shower, and needing 23 assistance with most activities of daily living. (Id. at 134.) Dr. Rozenfeld affirmed 24 Dr. Hawkins' initial finding that Plaintiff was not disabled, and reached the same 25 conclusions regarding Plaintiff's capabilities and limitations. (See id. at 139-144.) 26 The ALJ found Dr. Hawkins and Dr. Rozenfeld's opinions unpersuasive because 27 "although accompanied by some narrative discussions of the evidence as attempted 28 support, they are unable to be found consistent with the evidence as a whole." (AR at 36- 1 37.) The ALJ explained that neither doctor "appreciated a pace limit," which would have 2 addressed Plaintiff's documented difficulties with distractibility. (Id.) The ALJ also noted 3 that the doctors' opinions that Plaintiff have no contact with coworkers and only limited 4 contact with supervisors was inconsistent with other evidence, such as Plaintiff being 5 polite, capable of creating rapport, and exhibiting no signs of aggression. (Id.) For these 6 reasons, the ALJ concluded that the evidence was "most consistent with [the] ability to 7 have occasional interactions with co-workers." (Id.) Furthermore, the ALJ found that the 8 opinions failed to appreciate Plaintiff's trouble adapting to changes in routine or stressors, 9 rendering their opinions further inconsistent with Plaintiff's documented "adaptive 10 functioning deficits." (Id.) 11 The

ALJ also highlighted that the opinions focused on “what situations [Plaintiff] 12 was best-suited for, which does not address the maximum he is capable of performing.” 13 (Id. at 37.) He found the opinions “somewhat vague, as [they] did not define to what extent, 14 if any, in Agency-recognized terms, the [Plaintiff] could engage in decision-making or goal 15 setting.” (Id.) Ultimately, the ALJ concluded that because the opinions “lack pace or 16 adaptability limits and otherwise offer interacting limits inconsistent with the record, they 17 are generally inconsistent with the record, and thus, unpersuasive.” (Id.) 18 a. Consistency & Supportability 19 As previously mentioned, the ALJ is required to articulate how he considered both 20 the consistency and supportability factors of a medical source’s opinion when determining 21 its persuasiveness. Woods, 32 F.4th at 792. Here, the ALJ addressed how Dr. Hawkins and 22 Dr. Rozenfeld’s opinions regarding Plaintiff’s ability to interact with others, the failure to 23 address adaptive functioning deficits, and the need for a pace limit, were inconsistent with 24 other medical evidence in the record. Therefore, the Court finds that substantial evidence 25 supports the ALJ’s finding that Dr. Hawkins and Dr. Rozenfeld’s opinions were 26 unpersuasive under the consistency factor. 27 However, the ALJ did not evaluate the supportability factor that affected his analysis 28 of the doctors’ opinions. While the ALJ stated that Dr. Hawkins and Dr. Rozenfeld’s 1 opinions were “accompanied by some narrative discussion of the evidence as attempted 2 support” he made no explicit determination of supportability. (See AR at 36-37.) The ALJ 3 identified Dr. Hawkins and Dr. Rozenfeld’s findings and presented other medical evidence 4 that was inconsistent with their opinions, but did not explain whether their opinions were 5 supported by objective medical evidence, or why the narrative discussion of the evidence 6 was insufficient. (See id.) The ALJ must explain his reasoning under both the consistency 7 and supportability factors. Woods, 32 F.4th at 792. Accordingly, the Court finds that the 8 ALJ erred by not sufficiently evaluating the supportability factor in finding Dr. Hawkins 9 and Dr. Rozenfeld’s opinions unpersuasive. 10 3. Dr. Taylor 11 Dr. Clifford Taylor, who is a licensed psychologist, consultatively examined 12 Plaintiff during his initial claim for SSI benefits in September 2021. (AR at 414-420.) 13 Dr. Taylor concluded that Plaintiff was mildly or moderately impaired in his ability to 14 perform detailed and complex work, perform work activities consistently, perform work 15 without specialized supervision, complete a workday without a psychologically caused 16 interruption, accept instructions from supervisors, be around coworkers and the public, and 17 manage usual workplace stress. (Id. at 419.) Dr. Taylor, however, concluded that Plaintiff’s 18 ability to complete simple and repetitive tasks, and maintain regular attendance at work, 19 was unimpaired. (Id.) Dr. Taylor noted that Plaintiff’s autism symptoms “were not 20 significantly readily apparent” during the exam. (Id.) Dr. Taylor recognized, however, 21 Plaintiff’s social difficulties, but concluded they were “likely associated with 22 schizoaffective disorder.” (Id.) 23 The ALJ stated that Dr. Taylor’s findings of “moderate limits in concentrating, 24 persisting, or maintaining pace, adapting or managing oneself and interacting with 25 others[,]” were “largely consistent with the evidence.” (AR at 37.) However, the ALJ 26 found Dr. Taylor’s opinion

unpersuasive because “although accompanied by a narrative 27 exam report as attempted support, the evidence is inconsistent with need for a restriction 28 1 on interaction with supervisors.” (Id. at 37.) The ALJ noted the following regarding the 2 inconsistency: 3 The claimant does have autism with anxiety and schizoaffective disorders. Testimony emphasized social anxiety. The claimant was also observed as 4 anxious as of his consultative exam. Still, rapport was adequate. He also 5 answered questioned directly. Moreover, he has been described as polite and soft-spoken. The record also generally lacks indications of aggressive or 6 volatile behavior. Notably, he and his mother suggested he has some fear of 7 some authority figures (Exs. 33E and 4). Yet, as of his hearing, the claimant admitted that he had interviewed for a sales job about two years ago. While 8 he never heard back, he made no mention of difficulties during the interview. 9 His mother’s testimony also made no mention of significant difficulties interacting with authority figures . . . As the evidence, in its entirety, appears 10 inconsistent with need for a limit on supervisor contact, Dr. Taylor’s opinion 11 is unpersuasive. 12 (AR at 37-38.) 13 a. Consistency & Supportability 14 As previously mentioned, the ALJ is required to articulate how he considered both 15 the consistency and supportability factors of a medical source’s opinion when determining 16 its persuasiveness. Woods, 32 F.4th at 792. Here, the ALJ addressed how Dr. Taylor’s 17 opinion regarding Plaintiff’s need for a limit on supervisor contract was inconsistent with 18 the evidence by highlighting that Plaintiff answered questions directly, has been described 19 as polite and soft-spoken, has no aggressive or volatile tendencies, and while there has been 20 some suggested fear or authority figures, there is no mention of significant difficulties. (AR 21 at 37-38.) Therefore, the Court finds that there is substantial evidence for finding 22 Dr. Taylor’s opinion unpersuasive under the consistency factor. 23 However, the ALJ did not sufficiently evaluate the supportability factor that affected 24 his analysis of Dr. Taylor’s opinion. While the ALJ stated that Dr. Taylor’s opinion was 25 “accompanied by a narrative exam report as attempted support” he made no explicit 26 determination of supportability. (See AR at 36-37.) The ALJ merely identified Dr. Taylor’s 27 findings and presented other evidence that was inconsistent with his opinion. (See id.) He 28 did not explain whether Dr. Taylor’s opinion was supported by objective medical evidence, 1 or why the narrative exam report was insufficient. The ALJ must explain his reasoning 2 under both the consistency and supportability factors. Woods, 32 F.4th at 792. Accordingly, 3 the Court finds that the ALJ erred by not sufficiently articulating the supportability factor 4 in finding Dr. Taylor’s opinion unpersuasive. 5 For the above reasons, the Court finds that the ALJ’s evaluation of Dr. Kugel, Dr. 6 Hawkins, Dr. Rozenfeld, and Dr. Taylor’s opinions were inadequate. The ALJ articulated 7 the consistency factor when evaluating the medical opinions, but he did not sufficiently 8 articulate the supportability factor. The ALJ’s swift evaluation of the medical opinions does 9 not allow the Court to trace the path of the ALJ’s reasoning, which is required. See 82 Fed.

10 Reg. at 5858 (stating that the articulation requirements in the rules will allow a subsequent 11 reviewer or reviewing court to trace the path of the adjudicator’s reasoning). 12 The Court next

considers whether the ALJ's duty to further develop the record was triggered. B. Whether the ALJ's Duty to Further Develop the Record was Triggered Plaintiff argues that because the ALJ found all the medical opinions unpersuasive, he had a duty to develop the record regarding Plaintiff's functional limitations. (ECF No. 21 at 7-8.) Plaintiff contends that the ALJ could have, for example, ordered another consultative examination, called a medical expert to testify, remanded for a new determination, or recontacted Dr. Kugel to clarify his opinion. (Id.) Defendant counters that the record was thorough, and no such duty was triggered. (Id. at 14-15.) "In Social Security cases, the ALJ has a special duty to develop the record fully and fairly and to ensure that the claimant's interests are considered, even when the claimant is represented by counsel." *Mayes v. Massanari*, 276 F.3d 453, 459 (9th Cir. 2001). The duty is "triggered only when there is ambiguous evidence or when the record is inadequate to allow for proper evaluation of the evidence." *Id.* at 453, 459-60. The duty is heightened when the claimant is unrepresented, and "the ALJ must be especially diligent in exploring for all the relevant facts." *Tonapetyan v. Halter*, 242 F.3d 1144, 1150 (9th Cir. 2001). Additionally, "[t]he ALJ's duty to develop the record is heightened when a claimant's ability to protect his or her interests is adversely affected by a mental impairment." *Bousquet v. Apfel*, 118 F. Supp. 2d 1049, 1056 (C.D. Cal. Oct. 30, 2000) (citing *Higbee v. Sullivan*, 975 F.2d 558, 562 (9th Cir. 1992)). The ALJ may discharge this duty in several ways, including subpoenaing the claimant's physicians, submitting questions to the claimant's physicians, continuing the hearing, or keeping the record open after the hearing to allow supplementation of the record. *Tidwell v. Apfel*, 161 F.3d 599, 602 (9th Cir. 1998); *Smolen*, 80 F.3d at 1288; *Tonapetyan*, 242 F.3d 1144, 1150 (9th Cir. 2001). Here, the ALJ found that Plaintiff suffers from severe impairments of anxiety, autism, and schizoaffective disorder. (AR at 32.) Significantly, the record also reflects that Plaintiff was not represented by counsel until after the ALJ's decision was issued. (Id. at 11 47, 228-229.) Accordingly, the ALJ's duty to develop the record was heightened. Furthermore, the medical opinions in the record reflect that the evidence was not sufficient to allow for a complete evaluation of Plaintiff's functional limitations, and that further development of the record was needed. First, Dr. Kugel, the psychologist who first diagnosed Plaintiff with autism, explained that Plaintiff's psychological evaluation results "should be taken with caution" since it was based on "limited data" due to COVID-19 restrictions. (AR at 394-404.) Dr. Kugel recommended that Plaintiff's cognitive functioning be reevaluated in person when possible. (Id. at 400.) The ALJ did not address this recommendation, or the limitations of the data, and simply concluded that Dr. Kugel's opinion was unpersuasive and vague because it did not articulate the extent of Plaintiff's limitations in Agency-recognized terms. (See *id.* at 38.) Second, the state agency reviewing doctors, Dr. Hawkins and Dr. Rozenfeld, both stated that a consultative examination was necessary because "[a]dditional evidence is required to establish [the] current severity of the individual's impairment(s)." (AR at 113, 25 133.) In other words, the state agency doctors concluded that the evidence before them was insufficient to determine the

severity of Plaintiff's impairments. Therefore, the agency's 27 own reviewing doctors indicated that the record was inadequate. Again, the ALJ did not 28 address this limitation, and instead simply concluded that their opinions were unpersuasive 1 because they did not articulate Plaintiff's limitations in Agency-recognized terms, or include a 2 pace and adapting limitation. (Id. at 36-37.) The ALJ further stated that "[t]he consultants 3 were tasked with assessing the most the [Plaintiff] could do from a mental capacity 4 standpoint[," and that "[s]uch statements did not answer that question." (Id. at 37.) 5 Furthermore, while the ALJ concluded that the record was inconsistent with the need 6 for a limitation on supervisor contact, Dr. Hawkins and Dr. Rozenfeld stated that Plaintiff 7 is only capable of "occasional supervisory contact," and Dr. Taylor stated that Plaintiff's 8 ability to accept instructions from supervisors was moderately impaired. (AR at 122, 141, 9 419.) The ALJ found Dr. Taylor's opinion unpersuasive, focusing primarily on his 10 recommendation to limit Plaintiff's contact with supervisors. (See AR at 37, 38.) The 11 record, however, may not contain sufficient information to make this determination. For 12 example, Dr. Hawkins noted that she was "unsure how moderated limits interacting with 13 supervisors, coworkers and public . . . [and] dealing with . . . unusual stress . . . would play 14 out in the work place." (Id. at 115.) Dr. Kugel did not address supervisor contact, but again, 15 he explicitly stated that his findings were based on limited data. The ALJ appeared to rely 16 on observations that Plaintiff was able to answer questions directly, that he was "polite and 17 soft-spoken," that there are no indications of aggressive or volatile behavior, and that he 18 applied for a job at the mall two years earlier to make the determination. (Id. at 37-38.) 19 In sum, despite finding the medical opinions vague, ambiguous, or otherwise 20 unpersuasive, and despite finding that three opinions did not articulate Plaintiff's 21 limitations in Agency-recognized terms, and that two opinions did not assess "the most the 22 Plaintiff do from a mental capacity standpoint" (information necessary to formulate the 23 RFC), the ALJ crafted an RFC with highly specific limitations regarding Plaintiff's ability 24 for task complexity, decision-making, changes in the work setting, quota-based work, co- 25 worker interaction, and public contact. (See AR at 28.) It is important that this 26 determination be accurate, as it dictates the jobs that Plaintiff is allegedly capable of 27 performing. The ALJ's decision, however, does not reflect sufficient medical basis for 28 these specific functional findings since the majority of the medical opinions explicitly 1 stated that more information was needed to assess the severity of Plaintiff's impairments, 2 and his related limitations. 3 Given Dr. Hawkins and Dr. Rozenfeld's recognition that the record was insufficient, 4 Dr. Kugel's recommendation for an in-person reevaluation, the ALJ's rejection of all the 5 medical opinions as unpersuasive and/or vague, Plaintiff's lack of representation and 6 severe mental impairments, the Court finds that the ALJ did not satisfy the heightened duty 7 to develop the record. For example, another in-person psychological reevaluation could 8 have been ordered, clarification could have been sought regarding the opinions found to be 9 vague, and Plaintiff's functional limitations could have been defined in Agency-recognized 10 terms. 11 Based on the above, the Court finds that the ALJ erred by overlooking the lack of 12 evidence in the record that

accurately or completely described Plaintiff's functional limitations. Consequently, the ALJ's RFC assessment is not supported by substantial evidence. See *Rivera v. Berryhill*, 2017 WL 5054656, at **4-5 (C.D. Cal. Oct. 31, 2017) (holding that ALJ's RFC determination was not supported by substantial evidence where the record did not provide sufficient indications of the Plaintiff's functional limitations and the few findings that could translate to functional limitations were ambiguous). Additionally, it is not clear to the Court how a proper interpretation of the medical opinion evidence, or further development of the record, would have affected Plaintiff's RFC. Accordingly, the Court cannot conclude that this error was harmless. See *Danielle L. v. Saul*, No. 1:18-CV-3213-FVS, 2020 WL 3619081, at *9 (E.D. Wash. Mar. 11, 2020) (citing, e.g., *Carmickle v. Comm'r, Soc. Sec. Admin.*, 533 F.3d 1155, 1162 (9th Cir. 2008)) (error supporting a less restrictive RFC is harmless where it would not affect the ultimate non-disability determination).

II. CONCLUSION

The only remaining question for the Court is whether to remand for further administrative proceedings or for the payment of benefits. "The decision of whether to remand a case for additional evidence, or simply to award benefits[,] is within the discretion of the court." *Trevizo*, 871 F.3d at 682 (quoting *Sprague v. Bowen*, 812 F.2d 2 || 1226, 1232 (9th Cir. 1987)). "Remand for further administrative proceedings is appropriate 3 enhancement of the record would be useful." *Benecke v. Barnhart*, 379 F.3d 587, 593 4 || (9th Cir. 2004). A remand for an immediate award of benefits is appropriate only in rare 5 || circumstances. *Leon v. Berryhill*, 874 F.3d 1130 (9th Cir. 2017). The Court concludes that 6 || "[t]he rare circumstances that result in a direct award of benefits are not present in this 7 || case." *Ud.*) 8 Instead, the Court finds further administrative proceedings would serve a meaningful 9 || purpose. On remand, the ALJ must evaluate and explain both the consistency and the 10 || supportability factor in discussing each medical opinion, and develop the record further if 11 || necessary. All reasons set forth by the ALJ's decision must be clearly articulated so that 12 subsequent reviewer can assess how the ALJ evaluated the claimant's symptoms and 13 || the record. *Stout*, 454 F.3d at 1054; *Brown-Hunter*, 806 F.3d at 492. 14 The Court is mindful that this case faced challenging circumstances brought about 15 || by the pandemic, which limited the ability of medical providers to give in-person medical 16 || care to patients. The Court further notes that the ALJ did a thorough review of the relevant 17 || medical records. However, the fact that Plaintiff was not represented by counsel, coupled 18 || with his mental disability, created the need to have a more well-developed record. Based 19 || upon the record before the Court, the Court cannot conclude that this duty was fulfilled. 20 Based on the foregoing, the Court VACATES the ALJ's decision and REMANDS 21 ||this case for further administrative proceedings consistent with the findings presented 22 herein. The Clerk is directed to issue a judgment and close this case. 23 IT IS SO ORDERED. 24 || Dated: September 26, 2025
Be FG. 27 United States Magistrate Judge 28 18

