

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

DEC 19 2016

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

BRENDA S. MENDEZ,

Plaintiff-Appellant,

v.

CAROLYN W. COLVIN, Commissioner  
of Social Security,

Defendant-Appellee.

No. 14-17323

D.C. No. 2:13-cv-00838-NVW

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Arizona  
Neil V. Wake, District Judge, Presiding

Submitted December 15, 2016\*\*  
San Francisco, California

Before: KOZINSKI, BYBEE, and N.R. SMITH, Circuit Judges.

Brenda S. Mendez appeals the decision of the district court remanding her Social Security disability insurance benefits claim for further proceedings before the administrative law judge (“ALJ”) rather than for a determination of benefits.

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

The district court did not abuse its discretion in remanding for further proceedings, because there are outstanding issues that must be resolved before a determination of disability can be made. *Benecke v. Barnhart*, 379 F.3d 587, 590, 593 (9th Cir. 2004). Here, the record presents “conflicting evidence, and not all essential factual issues have been resolved” by the ALJ, including (1) assessing Mendez’s credibility, (2) weighing the opinions of medical providers, and (3) incorporating Mendez’s residual functional capacity into the job descriptions presented by the vocational expert. *See Treichler v. Comm’r of Soc. Sec. Admin.*, 775 F.3d 1090, 1101 (9th Cir. 2014). Therefore, remand for an award of benefits under the credit-as-true rule is inappropriate. *See id.*

**AFFIRMED.**