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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11 KAREN D. EUBANKS,

12 Plaintiff,

13 vs.

14 MICHAEL J. ASTRUE, Commissioner
of Social Security,

15 Defendant.
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CASE NO. ED CV 10-01564 RZ

MEMORANDUM OPINION
AND ORDER

17 Plaintiff Karen D. Eubanks contends that the Social Security Commissioner
18 wrongly denied her claim for disability benefits. Plaintiff argues that the Administrative
19 Law Judge (“ALJ”) erred in determining her disability onset date. The Court agrees, as
20 explained below.

21 An ALJ’s determination of a claimant’s disability onset date “‘must have a
22 legitimate medical basis.’” *Armstrong v. Commissioner*, 160 F.3d 587, 589 (9th Cir. 1998)
23 (quoting Social Security Ruling (“SSR”) 83-20). “[W]here a record is ambiguous as to the
24 onset date of disability, the ALJ must call a medical expert to assist in determining the
25 onset date.” *Id.* at 590.

26 In this case, the ALJ determined, without the assistance of a medical expert,
27 that Plaintiff became disabled as of June 2007, when her mental condition deteriorated
28 enough to prevent her from performing sustained work activity. (AR 32.) The ALJ based

1 her decision on Plaintiff's inception of "ongoing treatment for her inappropriate histrionic
2 response to family problems" at that time (AR 31-32), a reference to Plaintiff's June 2007
3 emergency room visit for an "anxiety attack" and subsequent regular treatment by a
4 psychiatrist. (AR 30; *see* AR 217-19, 265-70.) But the record demonstrates that Plaintiff
5 had suffered from a mental impairment prior to June 2007. Treating physician
6 Dr. Markarian assessed Plaintiff with major depression as early as February 2005. (AR
7 155-56, 164, 174-77, 187-88.) In addition, Dr. Johnson-Quijada, wrote on May 15, 2006,
8 that Plaintiff had been under her care since January 2004 and had "been continuously
9 disabled since this date to present" due to her Major Depression Disorder and panic attacks.
10 (AR 152.) Dr. Davis, a psychologist who treated Plaintiff beginning in October 2006,
11 wrote that Plaintiff's diagnoses included recurrent, severe major depression, dysthymic
12 disorder, and generalized anxiety disorder. He opined that Plaintiff was "not physically or
13 emotionally able to work" as of November 27, 2006, though she "was able to work in the
14 past." (AR 197-98.)

15 This evidence demonstrates that Plaintiff had suffered from and sought
16 treatment for mental illness long before her June 2007 emergency room visit. Although
17 the ALJ may be correct that Plaintiff's illness deteriorated in June 2007, her impairment
18 "could have been disabling long before that time." *See Armstrong*, 160 F.3d at 590; *see*
19 *also* SSR 83-20 (noting that for hospitalized mental patients, "onset of disability may
20 sometimes be found at a time considerably in advance of admission"). Because the record
21 is ambiguous as to the onset of Plaintiff's disability, the ALJ was required to call a medical
22 expert to assist in determining the onset date. *Armstrong*, 160 F.3d at 590.

23 The ALJ's rejection of Drs. Johnson-Quijada's and Davis's opinions does not
24 negate this requirement. Even if the ALJ's rejection of these opinions was proper, there
25 is other evidence of record documenting the existence of a mental impairment long before
26 June 2007. However, it is not clear to the Court why, as Plaintiff concedes, there are no
27 treatment notes from either Dr. Johnson-Quijada or Dr. Davis in the record. Based on the
28 information in their letters and their status as treating clinicians, notes from these

1 practitioners could substantially inform the ALJ's understanding of Plaintiff's condition
2 before June 2007. Plaintiff and the ALJ should make every effort to obtain these records.

3 In accordance with the foregoing, the decision is reversed. The matter is
4 remanded to the Commissioner, who shall properly assess Plaintiff's disability onset date,
5 and otherwise proceed as appropriate.

6 IT IS SO ORDERED.

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8 DATED: December 27, 2011

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12 RALPH ZARETSKY
13 UNITED STATES MAGISTRATE JUDGE
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