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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

ARTURO G. GUANTES,

Plaintiff,

v.

CAROLYN W. COLVIN, ACTING  
COMMISSIONER OF SOCIAL  
SECURITY ADMINISTRATION,<sup>1/</sup>

Defendant.

Case No. CV 12-1536 JCG

**MEMORANDUM OPINION AND  
ORDER**

Arturo G. Guantes (“Plaintiff”) challenges the Social Security Commissioner’s decision denying his application for disability benefits. Specifically, Plaintiff contends that the Administrative Law Judge (“ALJ”) failed to properly consider evidence of Plaintiff’s headaches, which the ALJ deemed a severe impairment. (Joint Stip. at 19-21; Administrative Record (“AR”) at 19.) The Court agrees with Plaintiff for the reasons stated below.

A. The ALJ Failed to Properly Consider Evidence of Plaintiff’s Headaches

“If an ALJ finds a severe impairment at step two, that impairment must be

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<sup>1/</sup> Carolyn W. Colvin is substituted as the proper defendant herein. See Fed. R. Civ. P. 25(d).

1 considered in the remaining steps of the sequential analysis.” *Bray v. Comm’r Soc.*  
2 *Sec. Admin.*, 554 F.3d 1219, 1228 (9th Cir. 2009); *see* 20 C.F.R. §§ 404.1523,  
3 416.923. Specifically, when the ALJ determines a claimant’s residual functional  
4 capacity (“RFC”) between steps three and four, the ALJ shall consider the combined  
5 impact of a claimant’s medically cognizable impairments on the claimant’s ability to  
6 work. *See* 20 C.F.R. § 416.923; *see also* *Macri v. Chater*, 93 F.3d 540, 545 (9th  
7 Cir. 1996). “[A]n RFC that fails to take into account a claimant’s limitations is  
8 defective.” *Valentine v. Comm’r Soc. Sec. Admin.*, 574 F.3d 685, 690 (9th Cir.  
9 2009).

10 Likewise, when an ALJ poses hypothetical questions to a vocational expert  
11 (“VE”) in order to reach a step five determination, they must “set out all the  
12 limitations and restrictions of the particular claimant.” *Russell v. Sullivan*, 930 F.2d  
13 1443, 1445 (9th Cir. 1991), *abrogated on other grounds by* *Sorenson v. Mink*, 239  
14 F.3d 1140, 1149 (9th Cir. 2001). If an ALJ’s hypothetical does not address all of  
15 the claimant’s impairments, “the expert’s testimony has no evidentiary value to  
16 support a finding that the claimant can perform jobs in the national economy.”  
17 *DeLorme v. Sullivan*, 924 F.2d 841, 850 (9th Cir. 1991); *see also* *Bray*, 554 F.3d at  
18 1228.

19 Here, the ALJ explicitly determined that Plaintiff’s headaches constituted a  
20 severe impairment at step two. (AR at 19.) Nevertheless, the ALJ failed to account  
21 for their manifestations in the remaining steps of his sequential analysis. (*Id.* at 19-  
22 24.) First, the ALJ omitted Plaintiff’s headache symptoms from his RFC  
23 determination without explanation or explicit rejection. (*Id.* at 19-22.) Next, the  
24 ALJ excluded the impairment from his hypothetical to the VE at Plaintiff’s hearing,  
25 and consequently, in his step five conclusion. (*Id.* at 22-24.) The ALJ’s failure to  
26 address Plaintiff’s headaches in his RFC and step five determinations amounts to  
27 reversible error.

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1           B.     Remand is Warranted

2           With error established, this Court has discretion to remand or reverse and  
3 award benefits. *McAllister v. Sullivan*, 888 F.2d 599, 603-04 (9th Cir. 1989).  
4 Where no useful purpose would be served by further proceedings, or where the  
5 record has been fully developed, it is appropriate to exercise this discretion to direct  
6 an immediate award of benefits. *See Benecke v. Barnhart*, 379 F.3d 587, 593, 595-  
7 96 (9th Cir. 2004). But where there are outstanding issues that must be resolved  
8 before a determination can be made, or it is not clear from the record that the ALJ  
9 would be required to find Plaintiff disabled if all the evidence were properly  
10 evaluated, remand is appropriate. *See id.* at 593-94.

11           Here, there are outstanding issues which must be resolved before a final  
12 determination can be made. On remand, the ALJ shall consider the evidence of  
13 Plaintiff's headaches and shall explicitly explain why the evidence related to this  
14 severe impairment is to be credited or rejected.

15           Based on the foregoing, IT IS ORDERED THAT judgment shall be entered  
16 **REVERSING** the decision of the Commissioner denying benefits and  
17 **REMANDING** the matter for further administrative action consistent with this  
18 decision.<sup>2/</sup>

19  
20 Dated: October 1, 2013

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22   
23 Hon. Jay C. Gandhi  
24 United States Magistrate Judge

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28 <sup>2/</sup> In light of the Court's remand instructions, it is unnecessary to address  
Plaintiff's remaining contentions. (*See Joint Stip.* at 3-6, 9-12, 15-18, 22-23.)