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

QUIANA BELL,
Plaintiff,
v.
CAROLYN W. COLVIN, ACTING
COMMISSIONER OF SOCIAL
SECURITY ADMINISTRATION,^{1/}
Defendant.

Case No. CV 12-02133 JCG

**MEMORANDUM OPINION AND
ORDER**

Quiana Bell (“Plaintiff”) challenges the Social Security Commissioner’s (“Defendant”) decision denying her application for disability benefits. Specifically, Plaintiff contends that the Administrative Law Judge (“ALJ”) improperly rejected her credibility. (Joint Stip. at 4-16, 20-21.) The Court agrees with Plaintiff.

A. The ALJ Failed to Provide Clear and Convincing Reasons for Rejecting Plaintiff’s Credibility

An ALJ may reject a claimant’s credibility “only upon (1) finding evidence of malingering, or (2) expressing clear and convincing reasons for doing so.” *Benton*

^{1/} Carolyn W. Colvin is substituted as the proper defendant herein. See Fed. R. Civ. P. 25(d).

1 *v. Barnhart*, 331 F.3d 1030, 1040 (9th Cir. 2003). “General findings are
2 insufficient; rather, the ALJ must identify what testimony is not credible and what
3 evidence undermines the claimant’s complaints.” *Lester v. Chater*, 81 F.3d 821,
4 834 (9th Cir. 1995).

5 Here, the ALJ provided one reason in support of his credibility determination.
6 The Court rejects it below.

7 The ALJ rejected Plaintiff’s credibility because her testimony of extreme pain
8 is not supported by objective medical evidence. (Administrative Record (“AR”) at
9 30.) The results of *objective* medical tests, however, speak little about a Plaintiff’s
10 *subjective* pain. *See Bunnell v. Sullivan*, 947 F.2d 341, 345 (9th Cir. 1991) (noting
11 “the inability of medical science to objectively verify the extent of pain experienced
12 by an individual”). As such, the Commissioner “may not discredit the claimant’s
13 testimony as to the severity of symptoms merely because they are unsupported by
14 objective medical evidence.” *Reddick v. Chater*, 157 F.3d 715, 722 (9th Cir. 1998);
15 *see Bunnell*, 947 F.2d at 345; 20 C.F.R. § 404.1529(c)(2). Here, the ALJ
16 discredited Plaintiff’s testimony as to the severity of her symptoms based *solely* on a
17 lack of objective findings. Accordingly, the ALJ’s credibility determination fails.

18 Defendant argues that “the ALJ properly weighed inconsistencies with
19 Plaintiff’s daily activities of daily living” in assessing her credibility.” (Joint Stip.
20 at 20.) However, the Court’s review is limited to the reasons *actually cited* by the
21 ALJ in his decision. *See Orn v. Astrue*, 495 F.3d 625, 630 (9th Cir. 2007) (“We
22 review only the reasons provided by the ALJ in the disability determination and
23 may not affirm the ALJ on a ground upon which he did not rely.”); *Connett v.*
24 *Barnhart*, 340 F.3d 871, 874 (9th Cir. 2003) (it is “error for the district court to
25 affirm the ALJ’s . . . decision based on evidence that the ALJ did not discuss”)
26 (citations omitted). Here, the ALJ did not suggest that Plaintiff’s limited daily
27 activities undermined her credibility. As such, the Court cannot make such a
28 finding.

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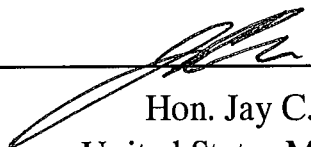
B. Remand is Warranted

With error established, this Court has discretion to remand or reverse and award benefits. *McAllister v. Sullivan*, 888 F.2d 599, 603 (9th Cir. 1989). Where no useful purpose would be served by further proceedings, or where the record has been fully developed, it is appropriate to exercise this discretion to direct an immediate award of benefits. *See Benecke v. Barnhart*, 379 F.3d 587, 595-96 (9th Cir. 2004). But where there are outstanding issues that must be resolved before a determination can be made, or it is not clear from the record that the ALJ would be required to find plaintiff disabled if all the evidence were properly evaluated, remand is appropriate. *See id.* at 594.

Here, there are outstanding issues which must be resolved before a final determination can be made. On remand, the ALJ shall reconsider Plaintiff's testimony, and either credit it or provide germane reasons for rejecting it.

Based on the foregoing, IT IS ORDERED THAT judgment shall be entered **REVERSING** the decision of the Commissioner denying benefits and **REMANDING** the matter for further administrative action consistent with this decision.

Dated: November 26, 2013



Hon. Jay C. Gandhi
United States Magistrate Judge