

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DARLEN LEE,)	CASE NO. SA CV 09-00104 RZ
)	
Plaintiff,)	
)	MEMORANDUM OPINION
vs.)	AND ORDER
)	
COMMISSIONER OF SOCIAL)	
SECURITY ADMINISTRATION,)	
)	
Defendant.)	

The Commissioner found that Plaintiff suffered from back strain and carpal tunnel syndrome. At various points in her Memorandum in Support of Complaint, Plaintiff asserts that the Commissioner did not fully consider all her impairments. The Court finds this to be a useful starting point in its analysis.

The record documents that, beyond the back strain and carpal tunnel syndrome which the Administrative Law Judge found, Plaintiff had other impairments to the back. These consisted of impairments to the thoracic spine [AR 176, 178] and to the lumbar spine, including lumbar stenosis and lumbar radiculopathy [AR 309, 376 and 383] and perhaps (if the Court is deciphering the physician’s handwriting correctly), lumbar spondylosis [AR 309]. The Court does not understand the Administrative Law Judge’s term “strain,” which suggests a muscular problem sometimes easily resolved with rest, to include these other back problems.

1 The starting point of the five-step sequential analysis always is the
2 determination of whether the claimant is working; if a claimant is working, the analysis
3 stops there. 20 C.F.R. § 1520(a)(4)(i); *Barnhart v. Thomas*, 540 U.S. 20, 24-25 (2003).
4 Here, the Administrative Law Judge found that Plaintiff stopped working in February 2006.
5 [AR 42] In this Court, the Commissioner argues that the Administrative Law Judge need
6 not discuss each piece of evidence, and the fact that not all evidence was discussed is not
7 determinative, because Plaintiff was able to work notwithstanding additional impairments.
8 (Defendant's Memorandum in Support of Answer, 2-3, 9.) There are three problems with
9 this argument. First, it is not a position that the Administrative Law Judge himself took,
10 and the law is clear that the Court can review only the rationale supplied by the
11 Administrative Law Judge. *Ceguerra v. Secretary of Health & Human Services*, 933 F.2d
12 735, 738 (9th Cir. 1991). Second, at least some of the impairments were noted in
13 diagnoses after Plaintiff stopped working [AR 309]. Third, even impairments that surfaced
14 prior to the time Plaintiff stopped working, such as the lumbar radiculopathy [AR 378] can
15 worsen over time; thus, even though the problem was diagnosed before Plaintiff stopped
16 working, and even though Plaintiff received treatment, which the Administrative Law
17 Judge acknowledged [AR 45], Plaintiff continued to receive numerous facet joint injections
18 to address some of the lumbar problems, including after she had stopped working. [*e.g.*,
19 AR 358-59] Perhaps she still would have been able to work; perhaps not; or perhaps she
20 would have been able to work with a more limited residual capacity, one which did not
21 provide that she could perform medium-level work. [AR 43] These are matters that need
22 to be explored, and were not.

23 Therefore, the action needs to be remanded. Because of this disposition of the
24 case, the Court does not address Plaintiff's arguments that the reasons advanced to discredit
25 Plaintiff's complaints of pain were inadequate, and that there is new and material
26 information bearing on Plaintiff's status. On remand, the Administrative Law Judge may
27 wish to address these matters.

1 The decision is reversed, and the matter is remanded to the Commissioner for
2 further proceedings consistent with this Memorandum Opinion.

3
4 DATED: January 25, 2010

5
6 
7 _____
8 RALPH ZAREFSKY
9 UNITED STATES MAGISTRATE JUDGE

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28