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5 IN THE UNITED STATES DISTRICT COURT  
6 FOR THE DISTRICT OF ARIZONA

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8 Kristoffer Shaun Cornelius,  
9 Plaintiff,

No. CV-13-00535-PHX-GMS

**ORDER**

10 v.

11 Carolyn W. Colvin, Acting Commissioner  
12 of Social Security Administration,  
13 Defendant.

14 Pending before the Court is Defendant's Motion to Remand. (Doc. 14.) For the  
15 reasons discussed below, the motion is denied.

16 **BACKGROUND**

17 **I. Procedural Background**

18 Plaintiff applied for disability insurance benefits and supplemental security  
19 income on March 29, 2010, alleging disability beginning January 1, 2008. (R. at 30.) He  
20 meets the insured status requirements of the Social Security Act through September 30,  
21 2014. (*Id.*) Plaintiff's claims were denied both initially and upon reconsideration. (*Id.*)  
22 Plaintiff then appealed to an Administrative Law Judge ("ALJ"). (*Id.*) The ALJ  
23 conducted a hearing on the matter on November 29, 2011. (*Id.*) On January 4, 2012, the  
24 ALJ applied the five-step sequential evaluation process found in 20 C.F.R. § 404.1520  
25 and concluded that Plaintiff was not disabled because his residual functional capacity  
26 ("RFC") allowed him to perform simple, unskilled work. (*Id.* at 34.) The Appeals  
27 Council declined to review the decision (*Id.* at 2-7), and Plaintiff filed suit in this Court.  
28 (Doc. 1.). Defendant then filed a Motion to Remand (Doc. 14), which has been fully

1 briefed.

2 **II. Factual Background**

3 Plaintiff applied for benefits due to attention deficient hyperactivity disorder,  
4 depression, anxiety, obsessive compulsive disorder, bipolar disorder, post-traumatic  
5 stress disorder, and sleep deprivation. (R. at 85.) In analyzing the severity of Plaintiff’s  
6 symptoms, the ALJ looked to Plaintiff’s medical records and to opinion evidence from  
7 two physicians who examined Plaintiff at the request of the State agency and two of  
8 Plaintiff’s treating physicians. (*Id.* at 35–39.) The ALJ further considered Plaintiff’s own  
9 testimony regarding the severity of his symptoms and their impact on his ability to obtain  
10 employment and remain employed. (*Id.* at 34–39.) The ALJ also considered the  
11 testimony of vocational expert Kathryn Atha. (*Id.* at 40.)

12 **DISCUSSION**

13 **I. Legal Standard**

14 In a claim seeking review of a denial of social security benefits, “[t]he court shall  
15 have power to enter, upon the pleadings and transcript of the record, a judgment  
16 affirming, modifying, or reversing the decision of the Commissioner of Social Security,  
17 with or without remanding the cause for a rehearing.” 42 U.S.C. § 405(g). “If additional  
18 proceedings can remedy defects in the original administrative proceeding, a social  
19 security case should be remanded.” *Marcia v. Sullivan*, 900 F.2d 172, 176 (9th Cir.  
20 1990). On the other hand, when “the question of whether [a claimant] is eligible for  
21 benefits turns entirely on the credibility” of a plaintiff’s testimony, and the district court  
22 finds that the ALJ improperly discredited that testimony, remand for further proceedings  
23 is inappropriate, and the court should instead remand for a calculation of benefits. *Moisa*  
24 *v. Barnhart*, 367 F.3d 882, 887 (9th Cir. 2004).

25 **II. Analysis**

26 Defendant argues that the record here presents outstanding issues that must be  
27 resolved. Defendant argues that the ALJ should be directed on remand to (1) give  
28 additional consideration to the medical opinion of Dr. Steingard and specify reasons for

1 the weight assigned to her opinion; (2) further evaluate Plaintiff's RFC; and (3) obtain  
2 additional vocational expert evidence in order to clarify the effect of Plaintiff's RFC on  
3 his occupational base. (Doc. 14 at 2.) However, Defendant fails to demonstrate good  
4 cause to justify remanding this case for further proceedings.

5 The ALJ found that Dr. Steingard's opinion was "rendered by a qualified,  
6 objective acceptable medical source that considered the claimant's subjective  
7 complaints" and that "the rationale expressed by this consultant and the conclusions  
8 reached are consistent with the treatment record, objective findings, opinion evidence,  
9 and the medical evidence as a whole." (R. at 37.) Accordingly, the ALJ afforded her  
10 opinion significant weight. (*Id.*) Defendant now asserts that the ALJ incorporated some of  
11 Dr. Steingard's opinions into her ultimate RFC finding, but did not incorporate Dr.  
12 Steingard's opinion regarding Plaintiff's persistence. Defendant states that the ALJ may  
13 have intended to discount some of Dr. Steingard's findings on this subject, but that the  
14 ALJ failed to explicitly state this in her decision. Defendant would direct the ALJ to be  
15 more specific in her consideration of Dr. Steingard's opinions on remand. However,  
16 nothing in the ALJ's decision suggests any hesitance regarding the ALJ's ultimate  
17 decision to give significant weight to Dr. Steingard's opinions.

18 Defendant further argues that the ALJ should have the opportunity on remand to  
19 potentially reassess the Plaintiff's RFC, and then obtain additional vocational expert  
20 evidence on the effects of Plaintiff's RFC on his occupational base, should that additional  
21 testimony become relevant. (Doc. 15 at 4.) Defendant fails to show good cause for  
22 affording the agency an additional opportunity to consider the same evidence the ALJ  
23 already considered in her opinion, or to have the opportunity to obtain further vocational  
24 expert evidence, beyond the evidence already provided by Kathryn Atha (R. at 74-81.)

25 **IT IS THEREFORE ORDERED:**

- 26 1. Defendant's Motion to Remand (Doc. 14) is **denied**.

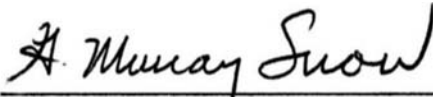
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2. Plaintiff shall have to and including **November 18, 2013**, to file an Opening Brief.

Dated this 17th day of October, 2013.

  
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G. Murray Snow  
United States District Judge