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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Anthony Martin DeSoto,

Plaintiff,

v.

Carolyn W. Colvin, Acting Commissioner
of Social Security Administration,

Defendant.

No. CV-12-00321-TUC-CKJ

ORDER

On July 18, 2013, Magistrate Judge D. Thomas Ferraro issued a Report and Recommendation, (Doc. 39), in which he recommended that this Court remand the case to the Administrative Law Judge¹ (“ALJ”).

Specifically, Magistrate Judge Ferraro recommended that the case be remanded to the ALJ because the ALJ erred in rejecting the opinion of Dr. Shapiro without providing specific, legitimate reasons, the ALJ’s credibility finding with respect to Plaintiff’s foot deformity was not based on clear and convincing evidence, the ALJ failed to provide clear and convincing reasons to discount Plaintiff’s allegations of fatigue, and the ALJ committed error when he rejected Plaintiff’s mother’s testimony without providing a specific reason for doing so.

Magistrate Judge Ferraro recommends that the case be remanded to the ALJ for further development of the case and reconsideration of the evidence from Dr. Shapiro and Plaintiff’s credibility, with respect to the impairment of his feet and his fatigue. Further,

¹ The Court notes that the Report and Recommendation incorrectly referred to the Administrative Law Judge using the masculine pronoun “he.”

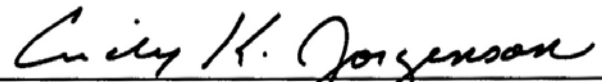
1 the ALJ must reconsider Plaintiff's residual functional capacity and his consideration at
2 Steps Four and Five of the required analysis, including gathering additional vocational
3 expert testimony if warranted. See C.F.R. §§404.920(a)(4), 416.1520(a)(4); *Heckler v.*
4 *Campbell*, 461 U.S. 458, 460-462 (1983).

5 No objections have been filed within the time provided by Federal Rule of Civil
6 Procedure 72(b)(2).

7 Accordingly, after an independent review, IT IS ORDERED:

- 8 1. The Report and Recommendation (Doc. 39) is ADOPTED.
- 9 2. This matter is remanded to the Administrative Law Judge for further
10 consideration consistent with the terms of this Order and the Report and
11 Recommendation, (Doc. 39).
- 12 3. The Clerk of the Court shall enter judgment in this matter and close its file.

13 Dated this 13th day of August, 2013.

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17 Cindy K. Jorgenson
18 United States District Judge
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