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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JERRY A. GARCIA,

Plaintiff,

v.

NANCY A. BERRYHILL, Acting
Commissioner of Social Security,¹

Defendant.

Case No. CV 15-9909-KK

MEMORANDUM AND ORDER

Plaintiff Jerry A. Garcia (“Plaintiff”) seeks review of the final decision of the Commissioner of the Social Security Administration (“Commissioner” or “Agency”) denying his application for Title XVI Supplemental Security Income (“SSI”). The parties have consented to the jurisdiction of the undersigned United States Magistrate Judge, pursuant to 28 U.S.C. § 636(c). For the reasons stated below, the Commissioner’s decision is REVERSED and this action is REMANDED for further proceedings consistent with this Order.

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¹ The Court substitutes Nancy A. Berryhill, the current Acting Commissioner of Social Security, as Defendant in this action. Fed. R. Civ. P. 25(d).

1 I.

2 **PROCEDURAL HISTORY**

3 On April 30, 2012, Plaintiff filed an application for SSI, alleging a disability
4 onset date of June 1, 2009. Administrative Record (“AR”) at 56, 66, 148-61.
5 Plaintiff’s application was denied initially on January 22, 2013. Id. at 69-74.
6 Plaintiff then requested a hearing before an Administrative Law Judge (“ALJ”).
7 Id. at 75-77. On March 12, 2014, Plaintiff appeared with counsel and testified at a
8 hearing before the assigned ALJ. Id. at 31-54. A vocational expert (“VE”) also
9 testified at the hearing. Id. at 48-52. On June 26, 2014, the ALJ issued a decision
10 denying Plaintiff’s application for SSI. Id. at 11-25.

11 Plaintiff filed a request to the Agency’s Appeals Council to review the ALJ’s
12 decision. Id. at 26-30. On November 2, 2015, the Appeals Council denied
13 Plaintiff’s request for review. Id. at 1-7.

14 On December 28, 2015, Plaintiff filed the instant action. ECF Docket No.
15 (“Dkt.”) 1, Compl. This matter is before the Court on the Parties’ Joint
16 Stipulation (“JS”), filed on July 14, 2017. Dkt. 31, JS.

17 II.

18 **PLAINTIFF’S BACKGROUND**

19 Plaintiff was born on November 8, 1966, and his alleged disability onset date
20 is June 1, 2009. AR at 55, 56, 66, 148. He was forty-two years old on the alleged
21 disability onset date and forty-seven years old at the time of the hearing before the
22 ALJ. Id. at 34. Plaintiff attended school through the eleventh grade and did not
23 receive a GED. Id. at 35. Plaintiff alleges disability based on back and neck pain,
24 leg and hip pain, leg numbness, Addison’s disease, Sarcoidosis, and asthma. Id. at
25 39-47, 55, 59, 149.

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1 III.

2 **STANDARD FOR EVALUATING DISABILITY**

3 To qualify for benefits, a claimant must demonstrate a medically
4 determinable physical or mental impairment that prevents him from engaging in
5 substantial gainful activity, and that is expected to result in death or to last for a
6 continuous period of at least twelve months. Reddick v. Chater, 157 F.3d 715, 721
7 (9th Cir. 1998). The impairment must render the claimant incapable of performing
8 the work he previously performed and incapable of performing any other
9 substantial gainful employment that exists in the national economy. Tackett v.
10 Apfel, 180 F.3d 1094, 1098 (9th Cir. 1999).

11 To decide if a claimant is disabled, and therefore entitled to benefits, an ALJ
12 conducts a five-step inquiry. 20 C.F.R. §§ 404.1520, 416.920. The steps are:

- 13 1. Is the claimant presently engaged in substantial gainful activity? If so, the
14 claimant is found not disabled. If not, proceed to step two.
- 15 2. Is the claimant's impairment severe? If not, the claimant is found not
16 disabled. If so, proceed to step three.
- 17 3. Does the claimant's impairment meet or equal one of the specific
18 impairments described in 20 C.F.R. Part 404, Subpart P, Appendix 1? If so,
19 the claimant is found disabled. If not, proceed to step four.²
- 20 4. Is the claimant capable of performing work he has done in the past? If so, the
21 claimant is found not disabled. If not, proceed to step five.
- 22 5. Is the claimant able to do any other work? If not, the claimant is found
23 disabled. If so, the claimant is found not disabled.

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26 ² "Between steps three and four, the ALJ must, as an intermediate step, assess
27 the claimant's [residual functional capacity]," or ability to work after accounting
28 for his verifiable impairments. Bray v. Comm'r of Soc. Sec. Admin., 554 F.3d 1219,
1222-23 (9th Cir. 2009) (citing 20 C.F.R. § 416.920(e)). In determining a
claimant's residual functional capacity, an ALJ must consider all relevant evidence
in the record. Robbins v. Soc. Sec. Admin., 466 F.3d 880, 883 (9th Cir. 2006).

1 See Tackett, 180 F.3d at 1098-99; see also Bustamante v. Massanari, 262 F.3d 949,
2 953-54 (9th Cir. 2001); 20 C.F.R. §§ 404.1520(b)-(g)(1), 416.920(b)-(g)(1).

3 The claimant has the burden of proof at steps one through four, and the
4 Commissioner has the burden of proof at step five. Bustamante, 262 F.3d at 953-
5 54. Additionally, the ALJ has an affirmative duty to assist the claimant in
6 developing the record at every step of the inquiry. Id. at 954. If, at step four, the
7 claimant meets his burden of establishing an inability to perform past work, the
8 Commissioner must show that the claimant can perform some other work that
9 exists in “significant numbers” in the national economy, taking into account the
10 claimant’s residual functional capacity (“RFC”), age, education, and work
11 experience. Tackett, 180 F.3d at 1098, 1100; Reddick, 157 F.3d at 721; 20 C.F.R.
12 §§ 404.1520(g)(1), 416.920(g)(1).

13 IV.

14 THE ALJ’S DECISION

15 A. STEP ONE

16 At step one, the ALJ found Plaintiff has not engaged “in substantial gainful
17 activity since April 30, 2012, the application date.” AR at 16.

18 B. STEP TWO

19 At step two, the ALJ found Plaintiff “ha[d] the following severe
20 impairments: Addison’s disease; sarcoidosis; cervical spine degenerative disc
21 disease; lumbar spine moderate degenerative disc disease at L5-S1, and
22 degenerative joint disease at all levels; lumbar spine radiculopathy bilaterally to the
23 ankles; asthma/chronic obstructive pulmonary disease (COPD); eczema;
24 hypothyroidism; migraines; hypertension; and gastroesophageal reflux disease
25 (GERD).” Id.

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1 **C. STEP THREE**

2 At step three, the ALJ found Plaintiff “does not have an impairment or
3 combination of impairments that meets or medically equals the severity of one of
4 the listed impairments in 20 CFR Part 404, Subpart P, Appendix 1.” Id.

5 **D. RFC DETERMINATION**

6 The ALJ found Plaintiff had the following RFC:

7 “to perform light work as defined in 20 CFR 416.967(b) except lift,
8 carry, push, or pull 20 pounds occasionally and 10 pounds frequently;
9 stand and walk for about six hours out of eight; sit for about six hours
10 out of eight; frequent bilateral upper extremity pushing and pulling;
11 postural activities such as climbing, balancing, stooping, kneeling,
12 crouching, and crawling can be performed on an occasional basis; no
13 ladders, ropes, or scaffolds; frequent bilateral overhead reaching,
14 handling, and fingering; avoid concentrated exposure to extreme cold,
15 extreme heat, humidity, irritants such as fumes, odors, dust, and
16 gasses, and hazards such as machinery and heights.”

17 Id. at 17.

18 **E. STEP FOUR**

19 At step four, the ALJ found Plaintiff is “unable to perform any past relevant
20 work.” Id. at 21.

21 **F. STEP FIVE**

22 At step five, the ALJ found “[c]onsidering [Plaintiff’s] age, education, work
23 experience, and residual functional capacity, there are jobs that exist in significant
24 numbers in the national economy that [Plaintiff] can perform.” Id.

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1 V.

2 **PLAINTIFF’S CLAIMS**

3 Plaintiff presents one disputed issue: whether the ALJ properly considered
4 Plaintiff’s testimony regarding his subjective complaints.³

5 VI.

6 **STANDARD OF REVIEW**

7 Pursuant to 42 U.S.C. § 405(g), a district court may review the
8 Commissioner’s decision to deny benefits. The ALJ’s findings and decision should
9 be upheld if they are free of legal error and supported by substantial evidence based
10 on the record as a whole. Richardson v. Perales, 402 U.S. 389, 401, 91 S. Ct. 1420,
11 28 L. Ed. 2d 842 (1971); Parra v. Astrue, 481 F.3d 742, 746 (9th Cir. 2007).

12 “Substantial evidence” is evidence that a reasonable person might accept as
13 adequate to support a conclusion. Lingenfelter v. Astrue, 504 F.3d 1028, 1035 (9th
14 Cir. 2007). It is more than a scintilla but less than a preponderance. Id. To
15 determine whether substantial evidence supports a finding, the reviewing court
16 “must review the administrative record as a whole, weighing both the evidence that
17 supports and the evidence that detracts from the Commissioner’s conclusion.”
18 Reddick, 157 F.3d at 720 (citation omitted); see also Hill v. Astrue, 698 F.3d 1153,

19
20 ³ Social Security Regulations regarding the evaluation of opinion evidence and
21 credibility were amended effective March 27, 2017. Where, as here, the ALJ’s
22 decision is the final decision of the Commissioner, the reviewing court generally
23 applies the law in effect at the time of the ALJ’s decision. See Lowry v. Astrue, 474
24 Fed. Appx. 801, 805 n.2 (2d Cir. 2012) (applying version of regulation in effect at
25 time of ALJ’s decision despite subsequent amendment); Garrett ex rel. Moore v.
26 Barnhart, 366 F.3d 643, 647 (8th Cir. 2004) (“We apply the rules that were in
27 effect at the time the Commissioner’s decision became final.”); Spencer v. Colvin,
28 No. 15-05925, 2016 WL 7046848, at *9 n.4 (W.D. Wash. Dec. 1, 2016) (“42 U.S.C.
§ 405 does not contain any express authorization from Congress allowing the
Commissioner to engage in retroactive rulemaking”); cf. Revised Medical Criteria
for Determination of Disability, Musculoskeletal System and Related Criteria, 66
Fed. Reg. 58010, 58011 (Nov. 19, 2001) (“With respect to claims in which we have
made a final decision, and that are pending judicial review in Federal court, we
expect that the court’s review of the Commissioner’s final decision would be made
in accordance with the rules in effect at the time of the final decision.”).
Accordingly, the Court applies the versions of 20 C.F.R. §§ 416.927 and 416.929
that were in effect at the time of the ALJ’s September 26, 2014 decision.

1 1159 (9th Cir. 2012) (stating that a reviewing court “may not affirm simply by
2 isolating a ‘specific quantum of supporting evidence’”) (citation omitted). “If the
3 evidence can reasonably support either affirming or reversing,” the reviewing court
4 “may not substitute its judgment” for that of the Commissioner. Reddick, 157
5 F.3d at 720-21; see also Molina v. Astrue, 674 F.3d 1104, 1111 (9th Cir. 2012)
6 (“Even when the evidence is susceptible to more than one rational interpretation,
7 we must uphold the ALJ’s findings if they are supported by inferences reasonably
8 drawn from the record.”).

9 The Court may review only the reasons stated by the ALJ in his decision
10 “and may not affirm the ALJ on a ground upon which he did not rely.” Orn v.
11 Astrue, 495 F.3d 625, 630 (9th Cir. 2007). If the ALJ erred, the error may only be
12 considered harmless if it is “clear from the record” that the error was
13 “inconsequential to the ultimate nondisability determination.” Robbins, 466 F.3d
14 at 885 (citation omitted).

15 VII.

16 DISCUSSION

17 **THE ALJ IMPROPERLY REJECTED PLAINTIFF’S TESTIMONY** 18 **REGARDING HIS SUBJECTIVE COMPLAINTS**

19 **A. Relevant Facts**

20 **1. Plaintiff’s Testimony Regarding His Impairments**

21 Plaintiff testified at the March 12, 2014 hearing before the ALJ regarding his
22 impairments, their symptoms, and their functional effect. AR at 31-54. He
23 testified that he suffers from both Addison’s disease and Sarcoidosis. Id. at 40-42.
24 Plaintiff testified that his Scaroidosis results in occasional flareups that attack his
25 lungs. Id. at 41-42. He also testified that his Addison’s disease - which, among
26 other things, affects a person’s ability to maintain blood pressure and can cause
27 severe fatigue - requires daily medication and treatment for the rest of Plaintiff’s
28 life. Id. at 40-42, 224-25.

1 Plaintiff additionally testified that he has constant neck and lower back pain,
2 which affects his ability to move, sit, and stand. Id. at 40, 42, 44. According to
3 Plaintiff, sitting for long periods of time results in pain and a burning sensation in
4 Plaintiff's legs and hips. Id. at 43, 47. As to his daily activities, Plaintiff testified he
5 does not do any household chores or grocery shopping. Id. at 35-36. He estimated
6 he could sit for thirty minutes, stand for ten minutes, and walk for about five steps
7 before losing his breath. Id. at 36. He further explained he had been using a cane to
8 walk "[f]or about six months." Id.

9 Plaintiff testified he is unable to work because he "can't bend"; "can't
10 move"; does not have "mobility" of his back and neck; cannot walk far because he
11 runs out of breath; has a suppressed immune system from his medication; has
12 constant pain in his legs and hips; and has intermittent numbness in his left leg. Id.
13 at 39-44. Plaintiff stated the numbness in his leg causes him to fall often, and as a
14 result, doctors prescribed him a cane to use. Id. at 45. He further testified he naps
15 every day for about two hours after taking his medication. Id. at 47. Plaintiff
16 estimated that his symptoms make it difficult for him to get out of bed three or four
17 times a week. Id. at 45.

18 **2. The ALJ's Adverse Credibility Finding**

19 The ALJ found Plaintiff was "partially credible." Id. at 20. The ALJ noted
20 that "[w]hile [Plaintiff's] daily activities are limited, the evidence of record does
21 not establish that he is incapable of performing such activities or work-related
22 activities for that matter." Id. at 21. In support of Plaintiff's credibility finding, the
23 ALJ reasoned (1) Plaintiff "has not had any surgeries"; (2) Plaintiff has a history of
24 noncompliance with prescribed treatment; (3) there is no medical evidence
25 supporting the need for an assistive device for ambulation and Plaintiff has only
26 recently started to rely upon one; and (4) there is no medical evidence to support
27 Plaintiff's claimed limitations in lifting more than eight pounds. Id.

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1 **B. Applicable Law**

2 If “the record establishes the existence of a medically determinable
3 impairment that could reasonably give rise to the reported symptoms, an ALJ must
4 make a finding as to the credibility of the claimant’s statements about the
5 symptoms and their functional effect.” Robbins v. Social Security Administration,
6 466 F.3d 880, 883 (2006) (citations omitted). The ALJ’s credibility determination
7 must be supported by “findings sufficiently specific to permit the court to conclude
8 that the ALJ did not arbitrarily discredit claimant’s testimony.” Tommasetti, 533
9 F.3d at 1039 (citation and internal quotation marks omitted).

10 The ALJ is required to engage in a two-step analysis. “First, the ALJ must
11 determine whether there is objective medical evidence of an underlying impairment
12 which could reasonably be expected to produce the pain or other symptoms
13 alleged.” Molina v. Astrue, 674 F.3d 1104, 1112 (9th Cir. 2012) (citations and
14 internal quotation marks omitted). “If the claimant has presented such evidence,
15 and there is no evidence of malingering, then the ALJ must give specific, clear and
16 convincing reasons in order to reject the claimant’s testimony about the severity of
17 the symptoms.” Id. (citations and internal quotation marks omitted). “The ALJ
18 must state specifically which symptom testimony is not credible and what facts in
19 the record lead to that conclusion.” Smolen v. Chater, 80 F.3d 1273, 1284 (9th Cir.
20 1996); see also Brown-Hunter v. Colvin, 806 F.3d 487, 489 (9th Cir. 2015) (holding
21 “an ALJ does not provide specific, clear, and convincing reasons for rejecting a
22 claimant’s testimony by simply reciting the medical evidence in support of his or
23 her residual functional capacity determination”).

24 “If the ALJ’s credibility finding is supported by substantial evidence, [a
25 court] may not engage in second-guessing.” Thomas v. Barnhart, 278 F.3d 947,
26 959 (9th Cir. 2002). However, an ALJ’s failure to give specific, clear, and
27 convincing reasons to reject the claimant’s testimony regarding the severity of the
28

1 symptoms is not harmless, because it precludes the Court from conducting a
2 meaningful review of the ALJ’s reasoning. Brown-Hunter, 806 F.3d at 489.

3 **C. Analysis**

4 Here, the ALJ found Plaintiff’s “medically determinable impairments could
5 reasonably be expected to cause the alleged symptoms.” AR at 17. Thus, because
6 there was no evidence of malingering, the ALJ was required to provide “specific,
7 clear and convincing reasons” in order to properly reject Plaintiff’s testimony
8 about the severity of his symptoms. Molina, 674 at 1112. However, as discussed
9 below, the ALJ failed to provide specific, clear, and convincing reasons for rejecting
10 Plaintiff’s testimony. Id.

11 **1. Conservative Treatment**

12 First, the ALJ reasoned Plaintiff had not undergone any surgical intervention
13 for his impairments. AR at 20. However, according to the ALJ’s findings, surgery
14 was recommended to Plaintiff, “but the insurance company refused coverage.” Id.
15 at 18; see also id. at 297, 341, 350. Plaintiff’s failure to seek treatment for which
16 “he had no medical insurance cannot support an adverse credibility finding.” Orn
17 v. Astrue, 495 F.3d 625, 638 (9th Cir. 2007); Gamble v. Chater, 68 F.3d 319, 321
18 (9th Cir. 1995); see also Fair v. Bowen, 885 F.2d 597, 603 (9th Cir. 1989) (holding
19 “unexplained, or inadequately explained, failure to seek treatment” may be the
20 basis for an adverse credibility finding unless one of a “number of good reasons for
21 not doing so” applies). Thus, to the extent the ALJ found Plaintiff received only
22 conservative treatment because he “has not had any surgeries,” this is not a proper
23 reason for rejecting Plaintiff’s claims regarding the severity of his symptoms.

24 **2. Medication Noncompliance**

25 Next, the ALJ found Plaintiff only partially credible because his symptoms
26 worsened when he was noncompliant with his medications. AR at 20. “[W]here
27 evidence suggests that [a plaintiff] had a good reason for not taking medication,” an
28 ALJ may not use the plaintiff’s failure to comply with his medication regimen as

1 grounds for rejecting his subjective complaints. Fair, 885 F.2d at 602; Smolen v.
2 Chater, 80 F.3d 1273, 1284 (9th Cir. 1996) (holding plaintiff’s failure to take
3 medication did not constitute a clear and convincing reason to discredit her
4 symptom testimony when plaintiff was unable to maintain a job, had no insurance,
5 and could not afford her medication).

6 Here, Plaintiff suffers from Addison’s disease, which is “a rare condition”
7 that generally requires a patient “take medicine for the rest of [the patient’s] life to
8 treat [the] condition and help prevent an adrenal crisis.” Id. at 224. While Plaintiff
9 had periods of noncompliance with his medication, there are doctor notes
10 indicating Plaintiff struggled to maintain his prescriptions at times⁴ “due to social
11 circumstances,” in that he lacked regular transportation and because of the high
12 expenses involved in getting to medical clinics and paying for the steroid
13 medication to treat Addison’s disease. Id. at 279, 285, 287, 289. Doctors
14 requested social workers meet with Plaintiff to assist him in finding regular
15 physician care in light of his social circumstances, but Plaintiff continued to
16 struggle to maintain his care. Id. at 278, 283, 285. Additionally, in 2013, doctors
17 noted Plaintiff stopped taking his medication for a period of four days. Id. at 425.
18 However, doctors further noted that, at that time, Plaintiff was suffering from
19 constant diarrhea and believed the medication was going “straight through” his
20 system. Id. at 425. Thus, in light of Plaintiff’s financial, transportation, and
21 medical issues, Plaintiff’s failure to comply with medications prescribed by his
22 doctors, does not, alone, constitute a specific, clear, and convincing reason for
23 rejecting Plaintiff’s symptom testimony. Smolen, 80 F.3d at 1284.

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26 ⁴ According to the record, Plaintiff’s failure to comply with his medication
27 requirements appear to be primarily confined to the treatment prescribed for his
28 Addison’s disease – a complicated disease that requires regular and strict
adherence to prescribed medications. AR at 224-25. The record does not appear
to include similar evidence of noncompliance with prescribed treatment related to
his back and neck pain.

1 **3. No Evidence of Cervicular Radiculopathy or Evidence Supporting**
2 **the Need for an Assistive Device**

3 Finally, the ALJ rejected Plaintiff's claims that (1) he could only lift eight
4 pounds "and not very often [because] most things hurt [Plaintiff's] lower back";
5 and (2) he relied on a cane when he walked. AR at 20. In rejecting Plaintiff's
6 lifting limitations, the ALJ concluded there was "no evidence of cervicular
7 radiculopathy and [Plaintiff] has good grip strength."⁵ *Id.* As to Plaintiff's reliance
8 on a cane, the ALJ found Plaintiff has "only used a cane for six months" and noted
9 that Dr. Concepcion Enriquez, a consultative physician, found Plaintiff had "no gait
10 abnormality and did not need an assistive device for ambulation." *Id.* at 20, 300.

11 Aside from a lack of medical evidence to support Plaintiff's claimed
12 limitations, the ALJ did not provide any further reasons for rejecting Plaintiff's
13 testimony that he could not lift more than eight pounds or that he relied on a cane
14 for balance⁶. "[A]n ALJ may not reject a claimant's subjective complaints based
15 solely on a lack of medical evidence." *Burch v. Barnhart*, 400 F.3d 676, 680 (9th
16 Cir. 2005). Thus, the lack of medical evidence, alone, was an improper reason for
17 rejecting Plaintiff's claims that he could not lift more than eight pounds and that he
18 needed a cane to help him balance.

19 Additionally, there *is* evidence in the record to support a finding that Plaintiff
20 (1) required a cane for balance and ambulation, and (2) was limited in his ability to
21 lift certain weight because of his lower back pain. Nevertheless, the ALJ failed to
22 explain why he was rejecting this evidence. For example, notes from a visit to
23 LAC+USC Medical Center Emergency Department on April 10, 2014 indicate
24

25 ⁵ While the record supports a finding that Plaintiff has good grip strength,
26 Plaintiff specifically indicated he was limited to lifting eight pounds because of his
lower back problems. *Id.* at 195.

27 ⁶ Although the ALJ additionally reasons Plaintiff has only used a cane for six
28 months, it is unclear why this supports the ALJ's rejection of Plaintiff's claimed
reliance – particularly in light of the fact that there is medical evidence finding
Plaintiff "at risk of falls." *Id.* at 436-37.

1 Plaintiff “is at risk of falls,” and thus, “use of an assistive device for ambulation”
2 was advised. AR at 436-37. As to Plaintiff’s inability to lift more than eight pounds
3 due to his back problems, a diagnosis from a clinic visit on June 28, 2013, indicated
4 Plaintiff suffers from back pain and radiculopathy. Id. at 328. There are also notes
5 from a visit to LAC+USC Medical Center Emergency Department in 2013, which
6 show Plaintiff suffers from “chronic [lower back pain] due to multilevel disease,”
7 spondylolisthesis, and “mild degenerative changes of the mid thoracic spine
8 intervertebral discs.” Id. at 438. Lastly, the ALJ even acknowledges that Plaintiff
9 “has a history of neck and back pain since 2004” and that Plaintiff “has lumbar
10 spine degenerative disc disease and degenerative joint disease”; yet he fails to
11 explain why he is ultimately rejecting these diagnoses despite the fact that Plaintiff
12 claims these issues affect his ability to lift a certain weight. Id. 18-19.

13 Thus, the ALJ’s claim that there is no evidence to support Plaintiff’s
14 subjective complaints that he cannot lift more than eight pounds and that he needs
15 a cane to support himself while he walks, is not a sufficient reason for finding
16 Plaintiff’s testimony was not credible.

17 **VIII.**

18 **RELIEF**

19 **A. APPLICABLE LAW**

20 “When an ALJ’s denial of benefits is not supported by the record, the
21 proper course, except in rare circumstances, is to remand to the agency for
22 additional investigation or explanation.” Hill, 698 F.3d at 1162 (citation omitted).
23 “We may exercise our discretion and direct an award of benefits where no useful
24 purpose would be served by further administrative proceedings and the record has
25 been thoroughly developed.” Id. (citation omitted). “Remand for further
26 proceedings is appropriate where there are outstanding issues that must be resolved
27 before a determination can be made, and it is not clear from the record that the ALJ
28 would be required to find the claimant disabled if all the evidence were properly

1 evaluated.” Id. (citations omitted); see also Reddick, 157 F.3d at 729 (“We do not
2 remand this case for further proceedings because it is clear from the administrative
3 record that Claimant is entitled to benefits.”).

4 **B. ANALYSIS**

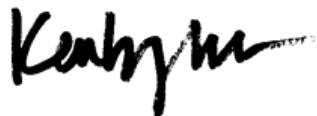
5 In this case, the record has not been fully developed. The ALJ must reassess
6 Plaintiff’s credibility and claimed limitations in light of the overall diagnostic
7 record. Accordingly, remand for further proceedings is appropriate.

8 **IX.**

9 **CONCLUSION**

10 For the foregoing reasons, IT IS ORDERED that judgment be entered
11 REVERSING the decision of the Commissioner and REMANDING this action for
12 further proceedings consistent with this Order. IT IS FURTHER ORDERED that
13 the Clerk of the Court serve copies of this Order and the Judgment on counsel for
14 both parties.

15
16 Dated: August 29, 2017



HONORABLE KENLY KIYA KATO
United States Magistrate Judge