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

MARTHA ANGELINGA ROSALES,
Plaintiff,
v.
NANCY A. BERRYHILL, Acting
Commissioner of Social Security,
Defendant.

Case No. CV 16-05873-RAO

**MEMORANDUM OPINION AND
ORDER**

I. INTRODUCTION

Plaintiff Martha Angelina Rosales (“Plaintiff”) challenges the Commissioner’s denial of her application for a period of disability and supplemental security income (“SSI”). For the reasons stated below, the decision of the Commissioner is REVERSED.

II. PROCEEDINGS BELOW

On January 27, 2012, Plaintiff filed an application for SSI, alleging disability beginning September 1, 2008. (Administrative Record (“AR”) 64-65, 76.) Her application was denied initially on June 22, 2012, and upon reconsideration on January 25, 2013. (AR 99, 107.) On March 25, 2013, Plaintiff filed a written

1 request for hearing, and a hearing was held on August 20, 2014.¹ (AR 50, 113.)
2 Represented by counsel, Plaintiff appeared and testified, along with a medical
3 expert and an impartial vocational expert. (AR 52-63.) On September 25, 2014,
4 the Administrative Law Judge (“ALJ”) found that Plaintiff had not been under a
5 disability, pursuant to the Social Security Act,² since January 27, 2012. (AR 33-
6 34.) The ALJ’s decision became the Commissioner’s final decision when the
7 Appeals Council denied Plaintiff’s request for review. (AR 1-4.) Plaintiff filed this
8 action on August 5, 2016. (Dkt. No. 1.)

9 The ALJ followed a five-step sequential evaluation process to assess whether
10 Plaintiff was disabled under the Social Security Act. *Lester v. Chater*, 81 F.3d 821,
11 828 n.5 (9th Cir. 1995). At **step one**, the ALJ found that Plaintiff had not engaged
12 in substantial gainful activity since January 27, 2012, the application date. (AR
13 28.) At **step two**, the ALJ found that Plaintiff has the following severe
14 impairments: bipolar disorder and mood disorder. (*Id.*) At **step three**, the ALJ
15 found that Plaintiff “does not have an impairment or combination of impairments
16 that meets or medically equals the severity of one of the listed impairments in 20
17 CFR Part 404, Subpart P, Appendix 1.” (*Id.*)

18 Before proceeding to step four, the ALJ found that Plaintiff has the residual
19 functional capacity (“RFC”) to:

20 [P]erform a full range of work at all exertional levels but with the
21 following nonexertional limitations: she can stand and walk for no
22 more than six of eight hours, cumulatively; can sit for no more than
23 six of eight hours, cumulatively; can understand and remember tasks,
sustain concentration and persistence for unskilled jobs with simple

24 ¹ An initial hearing was held on May 6, 2014, where Plaintiff began testifying. (AR
25 39-49.) Because the medical expert did not receive all of the exhibits, the parties
returned for another hearing at a later date. (AR 47-49.)

26 ² Persons are “disabled” for purposes of receiving Social Security benefits if they
27 are unable to engage in any substantial gainful activity owing to a physical or
28 mental impairment expected to result in death, or which has lasted or is expected to
last for a continuous period of at least 12 months. 42 U.S.C. § 423(d)(1)(A).

1 instructions; can socially interact with the general public; and can
2 adapt to workplace changes in low-stress environments.

3 (AR 29.)

4 At **step four**, the ALJ found that Plaintiff has no past relevant work. (AR
5 32.) At **step five**, “[c]onsidering the claimant’s age, education, work experience,
6 and residual functional capacity,” the ALJ found that “there are jobs that exist in
7 significant numbers in the national economy that the claimant can perform.” (AR
8 33.) Accordingly, the ALJ determined that Plaintiff has not been under a disability
9 since the application date. (*Id.*)

10 **III. STANDARD OF REVIEW**

11 Under 42 U.S.C. § 405(g), a district court may review the Commissioner’s
12 decision to deny benefits. A court must affirm an ALJ’s findings of fact if they are
13 supported by substantial evidence, and if the proper legal standards were applied.
14 *Mayes v. Massanari*, 276 F.3d 453, 458-59 (9th Cir. 2001). “‘Substantial evidence’
15 means more than a mere scintilla, but less than a preponderance; it is such relevant
16 evidence as a reasonable person might accept as adequate to support a conclusion.”
17 *Lingenfelter v. Astrue*, 504 F.3d 1028, 1035 (9th Cir. 2007) (citing *Robbins v. Soc.*
18 *Sec. Admin.*, 466 F.3d 880, 882 (9th Cir. 2006)). An ALJ can satisfy the substantial
19 evidence requirement “by setting out a detailed and thorough summary of the facts
20 and conflicting clinical evidence, stating his interpretation thereof, and making
21 findings.” *Reddick v. Chater*, 157 F.3d 715, 725 (9th Cir. 1998) (citation omitted).

22 “[T]he Commissioner’s decision cannot be affirmed simply by isolating a
23 specific quantum of supporting evidence. Rather, a court must consider the record
24 as a whole, weighing both evidence that supports and evidence that detracts from
25 the Secretary’s conclusion.” *Aukland v. Massanari*, 257 F.3d 1033, 1035 (9th Cir.
26 2001) (citations and internal quotation marks omitted). “‘Where evidence is
27 susceptible to more than one rational interpretation,’ the ALJ’s decision should be
28 upheld.” *Ryan v. Comm’r of Soc. Sec.*, 528 F.3d 1194, 1198 (9th Cir. 2008) (citing

1 *Burch v. Barnhart*, 400 F.3d 676, 679 (9th Cir. 2005)); *see Robbins*, 466 F.3d at
2 882 (“If the evidence can support either affirming or reversing the ALJ’s
3 conclusion, we may not substitute our judgment for that of the ALJ.”). The Court
4 may review only “the reasons provided by the ALJ in the disability determination
5 and may not affirm the ALJ on a ground upon which he did not rely.” *Orn v.*
6 *Astrue*, 495 F.3d 625, 630 (9th Cir. 2007) (citing *Connett v. Barnhart*, 340 F.3d
7 871, 874 (9th Cir. 2003)).

8 **IV. DISCUSSION**

9 Plaintiff raises four issues for review: (1) whether the Appeals Council failed
10 to evaluate new and material evidence submitted on appeal; (2) whether the ALJ
11 erred in evaluating physician opinions; (3) whether the ALJ erred in determining
12 severe impairments; and (4) whether the ALJ erred in determining Plaintiff’s RFC.
13 (Joint Stipulation (“JS”) 3, Dkt. No. 21.) Plaintiff contends that the Appeals
14 Council failed to explain its rejection of the additional evidence, the ALJ failed to
15 properly consider and weigh physician opinion evidence, the ALJ failed to explain
16 why impairments were deemed non-severe, and the ALJ failed to consider all of
17 Plaintiff’s symptoms and limitations in formulating her RFC. (JS 3, 12, 37, 46.)
18 The Commissioner disagrees. (*See JS 5-10, 26-35, 41-42, 47-49.*) For the reasons
19 below, the Court agrees with Plaintiff regarding the opinion evidence and remands
20 on that ground.

21 **A. The ALJ Erred in Evaluating Physician Opinions**

22 Plaintiff contends that the ALJ failed to properly assign weight to opinion
23 evidence and failed to provide sufficient reasons for rejecting the opinions of
24 treating physicians. (*See JS 12.*) The Commissioner contends that the ALJ
25 properly assessed the opinion evidence. (*See JS 25-26.*)

26 **1. Applicable Legal Standard**

27 Courts give varying degrees of deference to medical opinions based on the
28 provider: (1) treating physicians who examine and treat; (2) examining physicians

1 who examine, but do not treat; and (3) non-examining physicians who do not
2 examine or treat. *Valentine v. Comm’r, Soc. Sec. Admin.*, 574 F.3d 685, 692 (9th
3 Cir. 2009). Most often, the opinion of a treating physician is given greater weight
4 than the opinion of a non-treating physician, and the opinion of an examining
5 physician is given greater weight than the opinion of a non-examining physician.
6 *See Garrison v. Colvin*, 759 F.3d 995, 1012 (9th Cir. 2014).

7 The ALJ must provide “clear and convincing” reasons to reject the ultimate
8 conclusions of a treating or examining physician. *Embrey v. Bowen*, 849 F.2d 418,
9 422 (9th Cir. 1988); *Lester*, 81 F.3d at 830-31. When a treating or examining
10 physician’s opinion is contradicted by another opinion, the ALJ may reject it only
11 by providing specific and legitimate reasons supported by substantial evidence in
12 the record. *Orn*, 495 F.3d at 633; *Lester*, 81 F.3d at 830; *Carmickle v. Comm’r,*
13 *Soc. Sec. Admin.*, 533 F.3d 1155, 1164 (9th Cir. 2008). A non-examining
14 physician’s opinion can constitute substantial evidence if it is supported by other
15 evidence in the record and is consistent with it. *Morgan v. Comm’r of Soc. Sec.*
16 *Admin.*, 169 F.3d 595, 600 (9th Cir. 1999). “An ALJ can satisfy the ‘substantial
17 evidence’ requirement by ‘setting out a detailed and thorough summary of the facts
18 and conflicting evidence, stating his interpretation thereof, and making findings.’”
19 *Garrison*, 759 F.3d at 1012 (citation omitted).

20 Other non-medical sources may also provide opinions and testimony
21 regarding a claimant’s symptoms or the effects of a claimant’s impairments on his
22 or her ability to work. *Sprague v. Bowen*, 812 F.2d 1226, 1232 (9th Cir.1987)
23 (citing *Nguyen v. Chater*, 100 F.3d 1462, 1467 (9th Cir. 1996)). The ALJ must take
24 this evidence into account, unless the ALJ “expressly determines to disregard such
25 testimony, in which case ‘he must give reasons that are germane to each witness.’”
26 *Id.* (quoting *Dodrill v. Shalala*, 12 F.3d 915, 919 (9th Cir. 1993)); *see Lewis v.*
27 *Apfel*, 236 F.3d 503, 511 (9th Cir. 2001). Because such testimony is competent

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1 evidence, it “cannot be disregarded without comment.” *Nguyen*, 100 F.3d at 1467
2 (emphasis in original).

3 **2. Discussion**

4 The ALJ gave “great evidentiary weight” to the testimony of medical expert
5 Margaret Nichols, Ph.D., and gave “[m]oderate evidentiary weight” to the
6 conclusions in the Disability Determination Explanations, finding the testimony and
7 conclusions consistent with the treatment records. (AR 31-32.) The ALJ assigned
8 “little evidentiary weight” to Plaintiff’s very low Global Assessment of Functioning
9 (“GAF”) score because it was “apparently chiefly based on the claimant’s self-
10 reported symptoms, and not the benign objective mental status examination
11 results.” (AR 31.) The ALJ also discussed other medical opinions and evidence in
12 the record without assigning them weight or expressly crediting or rejecting them.
13 (*See* AR 30-32.)

14 **a. Medical Expert Margaret Nichols, Ph.D.**

15 At the hearing, Dr. Nichols testified via telephone about whether Plaintiff’s
16 symptoms met a listed impairment. (*See* AR 55-59.) In considering Listing 12.04,
17 Dr. Nichols determined that Plaintiff met the listing’s criteria of decreased energy,
18 but not suicidal thoughts. (AR 56-57.) Dr. Nichols also concluded that Plaintiff’s
19 mood disorder could cause her to miss work, but “not at the level of severity that
20 [Dr. Nichols] saw documented in the record.” (AR 57.) Dr. Nichols did not see
21 any indication that there would be periods of time with fluctuations of days off, or
22 days on which Plaintiff would not call in for work. (*Id.*) The ALJ granted Dr.
23 Nichols’s testimony “great evidentiary weight,” finding it consistent with treatment
24 and examination evidence. (AR 31.) The ALJ is permitted to rely on a non-
25 examining physician’s opinion when it is supported by and consistent with other
26 evidence in the record. *See Morgan*, 169 F.3d at 600.

27 However, for the reasons discussed below, the ALJ nonetheless erred in
28 assigning Dr. Nichols’s opinion great evidentiary weight without first properly

1 rejecting the conflicting opinions of Plaintiff’s treating and examining physicians.
2 *See Lester*, 81 F.3d at 830; *Carmickle*, 533 F.3d at 1164 (a treating or examining
3 physician’s opinion may be rejected in favor of another contradictory opinion only
4 with specific and legitimate reasons supported by substantial evidence).

5 **b. Treating Psychologist Ernest Rasyidi, M.D.**

6 Dr. Rasyidi completed a Mental Disorder Questionnaire Form on October 29,
7 2012. (AR 466-70.) Dr. Rasyidi noted that Plaintiff reported nightmares, worries,
8 isolation, increased startle response, and hypervigilance. (AR 466.) Dr. Rasyidi
9 also noted Plaintiff’s reported “periods of depressed mood lasting up to 2wks at a
10 time with ‘hyper’ periods” that included restlessness, irritability, racing thoughts,
11 insomnia, mood swings, and impulsive manic episodes that include hitting walls
12 and breaking cups. (*Id.*) Dr. Rasyidi noted that Plaintiff is “generally
13 anxious/irritable with intense/constricted range of emotions,” and that Plaintiff has
14 racing thoughts that impair her concentration. (AR 467.) Dr. Rasyidi noted that
15 Plaintiff has “labile, aggressive, impulsive behaviors” and a “[h]ighly reactive and
16 labile mood with alternation between anger and crying.” (AR 468.)

17 Regarding Plaintiff’s level of functioning and daily activities, Dr. Rasyidi
18 stated that Plaintiff “requires intensive case management services” to help manage
19 her childcare and logistic planning, and Plaintiff has “poor attention to nutrition” to
20 the point that she was briefly hospitalized for dehydration. (AR 468.) Dr. Rasyidi
21 noted that Plaintiff had “limited socialization” and was “[h]ypervigilant and
22 mistrustful after trauma.” (AR 469.) Dr. Rasyidi noted that Plaintiff was
23 “intermittently house bound” due to a fear of unfamiliar scenarios. (*Id.*)

24 Dr. Rasyidi reported Plaintiff’s diagnosis of posttraumatic stress disorder
25 (“PTSD”) and bipolar NOS. (AR 470.) Dr. Rasyidi also reported a “guarded”
26 prognosis, noting that Plaintiff was “fairly refractory despite intensive therapy.”
27 (AR 470.) Dr. Rasyidi opined that no significant change was likely in the next
28 twelve months. (*Id.*)

1 The ALJ’s entire discussion of Dr. Rasyidi’s opinion is reduced to one
2 sentence in which the ALJ notes that Dr. Rasyidi “repeated the claimant’s
3 complaints and endorsements.”³ (AR 31.) An opinion that is based on a claimant’s
4 discredited subjective complaints may be rejected.⁴ *See Tommasetti v. Astrue*, 533
5 F.3d 1035, 1041 (9th Cir. 2008); *Tonapetyan v. Halter*, 242 F.3d 1144, 1149 (9th
6 Cir. 2001); *Morgan v. Comm’r Soc. Sec. Admin.*, 169 F.3d 595, 602 (9th Cir. 1999);
7 *Fair v. Bowen*, 885 F.2d 597, 605 (9th Cir. 1989). Here, to the extent that Dr.
8 Rasyidi did clearly “repeat[] the claimant’s complaints and endorsements,” it was in
9 response to the question, “What are the patient’s complaints and symptoms? How
10 and when did they begin? How does the patient describe complaints (verbatim
11 quotes)?” (AR 466.) The ALJ wholly fails to discuss any other part of Dr.
12 Rasyidi’s opinion. The degree to which the ALJ discredited Dr. Rasyidi’s opinion
13 is unclear, as the ALJ did not assign any weight to Dr. Rasyidi’s opinion, nor did he
14 expressly reject it.

15 The Commissioner contends that the ALJ properly dismissed Dr. Rasyidi’s
16 opinion because it was contradicted by state agency physicians and a medical
17 expert, and it was not supported by objective medical evidence. (JS 28-31.) But
18 those were not reasons that the ALJ provided, and the Court may not consider
19 grounds upon which the ALJ did not rely. *See Orn*, 495 F.3d at 630; *Bray v.*
20 *Commissioner of Social Security Admin.*, 554 F.3d 1219, 1225 (9th Cir. 2009)
21 (“Long-standing principles of administrative law require us to review the ALJ’s
22 decision based on the reasoning and factual findings offered by the ALJ—not post
23

24 ³ The ALJ erroneously referred to Dr. Rasyidi as Dr. Rasslklij.

25 ⁴ The ALJ found that Plaintiff was “only partially credible.” (AR 32.) Plaintiff
26 does not challenge the ALJ’s adverse credibility finding, and thus that issue is not
27 before this Court. *See Guith v. Berryhill*, No. 1:16-CV-00625 GSA, 2017 WL
28 4038105, at *8 (E.D. Cal. Sept. 13, 2017) (citing *Carmickle v. Commissioner*, 533
F.3d 1155, 1161 n.2 (9th Cir. 2008)) (“Plaintiff has not contested the ALJ’s
credibility determination and therefore, he has waived that argument.”).

1 hoc rationalizations that attempt to intuit what the adjudicator may have been
2 thinking.”).

3 The Court finds that the ALJ failed to properly consider and weigh Dr.
4 Rasyidi’s opinion. *See Garrison*, 759 F.3d at 1012-13 (“Where an ALJ does not
5 explicitly reject a medical opinion or set forth specific, legitimate reasons for
6 crediting one medical opinion over another, he errs.” (internal citation omitted)).

7 **c. Therapist Gina Louhisdon, MA, MFTI**

8 Ms. Louhisdon wrote a letter on October 5, 2010 that documented her
9 treatment history with Plaintiff. (AR 335-36.) Ms. Louhisdon noted that Plaintiff
10 began treatment at the Santa Clarita Child and Family Center in August 2008, and
11 Ms. Louhisdon had met with Plaintiff for 82 therapy sessions. (AR 335.) Ms.
12 Louhisdon repeated Plaintiff’s reported symptoms and listed the primary focuses of
13 her treatment plan. (*Id.*) After noting that Plaintiff reports difficulty with
14 functioning at home and in social settings, Ms. Louhisdon suggested that “[t]his
15 could be due to her paranoid ideation.” (AR 336.) Ms. Louhisdon attributed
16 Plaintiff’s inability to become employed to Plaintiff’s anxiety symptoms and
17 paranoid ideation, which causes Plaintiff to be easily overwhelmed, and her
18 struggles with daily self-care. (*Id.*) Ms. Louhisdon noted that Plaintiff “doesn’t
19 cope well with stress and may become reactive in the workplace” if faced with too
20 much stress or too many demands. (*Id.*) Ms. Louhisdon also noted that Plaintiff
21 tends to procrastinate and has difficulty with follow-through. (*Id.*) Ms. Louhisdon
22 concluded that Plaintiff’s lack of work history is due to her functional impairments
23 and, despite consistent treatment, Plaintiff’s “prognosis is poor.” (*Id.*) Plaintiff’s
24 diagnosis was reported as bipolar and chronic post-traumatic stress disorder. (*Id.*)

25 Ms. Louhisdon submitted another letter on June 5, 2012 that noted that she
26 had then seen Plaintiff for 117 therapy sessions, but this letter was otherwise nearly
27 identical to the October 5, 2010 letter. (AR 463-64.)
28

1 A therapist is a nonmedical “other source,” and therefore a therapist’s
2 opinion may be discounted if the ALJ provides germane reasons for doing so. *See*
3 *Ghanim v. Colvin*, 763 F.3d 1154, 1161 (9th Cir. 2014). When discussing Ms.
4 Louhisdon’s opinions, the ALJ noted:

5 The claimant’s long-term counselor also endorsed the claimant’s
6 assertions, and the form was cross-signed by a psychologist whose
7 relationship with the claimant is unknown [citation]. The therapist
8 states that she has seen claimant 117 times. Notes include only
August 2012 through July 2013 and are minimal.

9 (AR 31.)

10 An opinion or testimony that merely repeats a claimant’s discredited
11 complaints may be rejected. *See Tommasetti v. Astrue*, 533 F.3d 1035, 1041 (9th
12 Cir. 2008). However, in addition to Ms. Louhisdon’s repetition of Plaintiff’s
13 assertions, the letter provides additional opinions and conclusions, which the ALJ
14 did not acknowledge. (*See* AR 336, 464.) Additionally, the ALJ seemingly
15 mischaracterizes Plaintiff’s treatment records. The records provided by Child and
16 Family Center are Plaintiff’s Annual Assessment Updates (AR 445-47, 448-50) and
17 Client Care Coordination Plans (AR 451-55, 456-62). These Updates and Plans,
18 which include records from July 2011, do not purport to document individual
19 treatment sessions (*see* AR 453-55). *See Gallant v. Heckler*, 753 F.2d 1450, 1456
20 (9th Cir. 1984) (error for an ALJ to ignore or misstate the competent evidence in
21 the record in order to justify his conclusion).

22 The ALJ erred in failing to consider Ms. Louhisdon’s opinion evidence
23 without “expressly determin[ing] to disregard” it and providing germane reasons
24 for doing so. *Sprague*, 812 F.2d at 1232; *see Nguyen*, 100 F.3d at 1467.

25 **d. Consultative Examiner William Goldsmith, M.D.**

26 Dr. Goldsmith provided a psychiatric evaluation of Plaintiff in May 2012.
27 (AR 438-42.) Dr. Goldsmith noted that Plaintiff’s post-traumatic stress disorder
28 was due to a year-long abusive relationship. (AR 438.) Plaintiff reported depressed

1 periods with suicidal thoughts and homicidal thoughts toward her children. (*Id.*)
2 Dr. Goldsmith observed that Plaintiff’s thought process was “organized and intact,”
3 and her thought content was “without gross delusional thinking.” (AR 440.) Dr.
4 Goldsmith assigned Plaintiff a GAF score of 60, noted that Plaintiff has symptoms
5 of PTSD, and opined that she may have a bipolar II disorder. (AR 441.) He also
6 noted that Plaintiff “seems to be doing better” than was reported in October 2010
7 records. (*Id.*) Dr. Goldsmith found that Plaintiff could understand, remember, and
8 carry out simple one- or two-step instructions; was slightly impaired in her ability
9 to follow detailed and complex instructions; was moderately impaired in her ability
10 to relate and interact with supervisors, coworkers, and the public; could maintain
11 concentration, attention, persistence, and pace; was moderately impaired in her
12 ability to associate with day-to-day work activity, including attendance and safety;
13 was slightly impaired in her ability to adapt to common work stresses; could
14 maintain regular attendance and consistently perform work activities; and was able
15 to perform work activities without special or additional supervision. (AR 442.)

16 The ALJ accurately summarized Dr. Goldsmith’s opinion; however, the ALJ
17 failed to provide specific and legitimate reasons, supported by substantial evidence,
18 for seemingly rejecting Dr. Goldsmith’s opinion in favor of the non-examining
19 medical expert’s conflicting opinion. After summarizing Dr. Goldsmith’s report,
20 the ALJ provided no reasons for accepting or rejecting his opinion, and the ALJ did
21 not assign it any degree of weight. (*See* AR 30.)

22 The Court finds that the ALJ failed to properly consider and weigh Dr.
23 Goldsmith’s opinion. *See Carmickle*, 533 F.3d at 1164 (an examining physician’s
24 contradicted opinion may be rejected with “specific and legitimate reasons that are
25 supported by substantial evidence in the record”); *Garrison*, 759 F.3d at 1012-13
26 (an ALJ errs when he fails to set forth specific, legitimate reasons for crediting one
27 medical opinion over another).

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1 **f. Records from Penny Lane Center**

2 The ALJ noted that in a January 2014 assessment performed at a Penny Lane
3 Center, Plaintiff was assigned a GAF score of 32, “which is consistent with
4 custodial care.” (AR 31.) The ALJ set forth a summary of the findings from the
5 evaluation and determined that the GAF score “does not match the objective mental
6 testing of the same date.” (*Id.*) The ALJ also observed that Plaintiff “subjectively
7 endorsed a wide variety of severe symptoms.” (*Id.*) The ALJ gave the
8 assessment’s conclusion of a very low GAF score “little evidentiary weight”
9 because it appeared to be “chiefly based on the claimant’s self-reported symptoms,
10 and not the benign objective mental status examination results.” (*Id.*)

11 Plaintiff argues that the ALJ failed to discuss the full report that accompanied
12 the GAF score. (JS 21.) However, the ALJ summarized the contents of the
13 assessment, which merely documented Plaintiff’s own reported symptoms and
14 contained no third-party opinions. (AR 31; *see* AR 549-51.) Plaintiff also argues
15 that the ALJ failed to discuss additional reports from March through April 2014 (JS
16 21), but the ALJ noted that Plaintiff “continued to be treated through the springtime
17 of 2014” (AR 31).

18 The ALJ properly considered this objective medical evidence, and the ALJ’s
19 assignment of “little evidentiary weight” to the assessment’s GAF conclusion is
20 supported by substantial evidence. *See Reddick*, 157 F.3d at 725 (an ALJ can
21 satisfy the substantial evidence requirement “by setting out a detailed and thorough
22 summary of the facts and conflicting clinical evidence, stating his interpretation
23 thereof, and making findings”).

24 Although the ALJ properly considered the disputed objective medical
25 evidence, it is unclear whether the ALJ properly considered the opinion evidence in
26 accordance with the appropriate legal standards. Remand is therefore warranted for
27 the ALJ to properly evaluate the opinion evidence and determine Plaintiff’s RFC.

28 ///

1 **B. The Court Declines to Address Plaintiff’s Remaining Arguments**

2 Having found that remand is warranted, the Court declines to address
3 Plaintiff’s remaining arguments that the Appeals Council failed to evaluate new
4 evidence, that the ALJ erred in determining Plaintiff’s severe impairments, and that
5 the ALJ erred in formulating Plaintiff’s RFC. *See Hiler v. Astrue*, 687 F.3d 1208,
6 1212 (9th Cir. 2012) (“Because we remand the case to the ALJ for the reasons
7 stated, we decline to reach [plaintiff’s] alternative ground for remand.”); *see also*
8 *Augustine ex rel. Ramirez v. Astrue*, 536 F. Supp. 2d 1147, 1153 n.7 (C.D. Cal.
9 2008) (“[The] Court need not address the other claims plaintiff raises, none of
10 which would provide plaintiff with any further relief than granted, and all of which
11 can be addressed on remand.”).

12 **C. Remand For Further Administrative Proceedings**

13 Because further administrative review could remedy the ALJ’s errors,
14 remand for further administrative proceedings, rather than an award of benefits, is
15 warranted here. *See Brown-Hunter v. Colvin*, 806 F.3d 487, 495 (9th Cir. 2015)
16 (remanding for an award of benefits is appropriate in rare circumstances). Before
17 ordering remand for an award of benefits, three requirements must be met: (1) the
18 Court must conclude that the ALJ failed to provide legally sufficient reasons for
19 rejecting evidence; (2) the Court must conclude that the record has been fully
20 developed and further administrative proceedings would serve no useful purpose;
21 and (3) the Court must conclude that if the improperly discredited evidence were
22 credited as true, the ALJ would be required to find the claimant disabled on
23 remand. *Id.* (citations omitted). Even if all three requirements are met, the Court
24 retains flexibility to remand for further proceedings “when the record as a whole
25 creates serious doubt as to whether the claimant is, in fact, disabled within the
26 meaning of the Social Security Act.” *Id.* (citation omitted).

27 Here, remand for further administrative proceedings is appropriate. The
28 Court finds that the ALJ failed to provide legally adequate reasons to reject the

1 opinions of Dr. Rasyidi, Ms. Louhisdon, Dr. Goldsmith, and Dr. Fogarty.

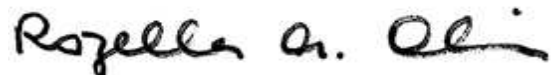
2 On remand, the ALJ shall reassess the opinions Plaintiff's treating and
3 examining physicians and other sources, and provide legally adequate reasons for
4 any portion of an opinion that the ALJ discounts or rejects. Further on remand, the
5 ALJ shall reassess Plaintiff's subjective allegations in light of Social Security
6 Ruling 16-3p—Evaluation of Symptoms in Disability Claims, 2016 WL 1119029
7 (S.S.A. Mar. 16, 2016), which would apply on remand. If necessary, the ALJ shall
8 reassess Plaintiff's RFC, and then proceed through steps four and five to determine
9 what work, if any, Plaintiff is capable of performing.

10 **V. CONCLUSION**

11 IT IS ORDERED that Judgment shall be entered REVERSING the decision
12 of the Commissioner denying benefits, and REMANDING the matter for further
13 proceedings consistent with this Order.

14 IT IS FURTHER ORDERED that the Clerk of the Court serve copies of this
15 Order and the Judgment on counsel for both parties.

16
17 DATED: December 29, 2017



18 ROZELLA A. OLIVER
19 UNITED STATES MAGISTRATE JUDGE

20
21 **NOTICE**

22 **THIS DECISION IS NOT INTENDED FOR PUBLICATION IN WESTLAW,
23 LEXIS/NEXIS, OR ANY OTHER LEGAL DATABASE.**