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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

T.H.,

Plaintiff,

v.

ANDREW M. SAUL, Commissioner of  
Social Security,

Defendant.

Case No. 2:19-cv-05779-SHK

OPINION AND ORDER

Plaintiff T.H.<sup>1</sup> (“Plaintiff”) seeks judicial review of the final decision of the Commissioner of the Social Security Administration (“Commissioner,” “Agency,” or “Defendant”) denying his application for supplemental security income (“SSI”), under Title XVI of the Social Security Act (the “Act”). This Court has jurisdiction under 42 U.S.C. § 1383(c)(3), and, pursuant to 28 U.S.C. § 636(c), the parties have consented to the jurisdiction of the undersigned United States Magistrate Judge. 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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<sup>1</sup> The Court substitutes Plaintiff’s initials for Plaintiff’s name to protect Plaintiff’s privacy with respect to Plaintiff’s medical records discussed in this Opinion and Order.

1 **I. BACKGROUND**

2 Plaintiff filed an application for SSI on March 31, 2016, alleging disability  
3 beginning on March 1, 2014. Transcript (“Tr.”) 163-73.<sup>2</sup> Following a denial of  
4 benefits, Plaintiff requested a hearing before an administrative law judge (“ALJ”)  
5 and, on August 27, 2018, ALJ Susan Hoffman determined that Plaintiff was not  
6 disabled. Tr. 12-26. Plaintiff sought review of the ALJ’s decision with the Appeals  
7 Council, however, review was denied on May 15, 2019. Tr. 1-3. This appeal  
8 followed.

9 **II. STANDARD OF REVIEW**

10 The reviewing court shall affirm the Commissioner’s decision if the decision  
11 is based on correct legal standards and the legal findings are supported by  
12 substantial evidence in the record. 42 U.S.C. § 405(g); Batson v. Comm’r Soc.  
13 Sec. Admin., 359 F.3d 1190, 1193 (9th Cir. 2004). Substantial evidence is “more  
14 than a mere scintilla. It means such relevant evidence as a reasonable mind might  
15 accept as adequate to support a conclusion.” Richardson v. Perales, 402 U.S. 389,  
16 401 (1971) (citation and internal quotation marks omitted). In reviewing the  
17 Commissioner’s alleged errors, this Court must weigh “both the evidence that  
18 supports and detracts from the [Commissioner’s] conclusions.” Martinez v.  
19 Heckler, 807 F.2d 771, 772 (9th Cir. 1986).

20 ““When evidence reasonably supports either confirming or reversing the  
21 ALJ’s decision, [the Court] may not substitute [its] judgment for that of the ALJ.””  
22 Ghanim v. Colvin, 763 F.3d 1154, 1163 (9th Cir. 2014) (quoting Batson, 359 F.3d at  
23 1196); see also Thomas v. Barnhart, 278 F.3d 947, 959 (9th Cir. 2002) (“If the  
24 ALJ’s credibility finding is supported by substantial evidence in the record, [the  
25 Court] may not engage in second-guessing.”) (citation omitted). A reviewing  
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27 <sup>2</sup> A certified copy of the Administrative Record was filed on November 27, 2019. Electronic  
28 Case Filing Number (“ECF No.”) 20. Citations will be made to the Administrative Record or  
Transcript page number rather than the ECF page number.

1 court, however, “cannot affirm the decision of an agency on a ground that the  
2 agency did not invoke in making its decision.” Stout v. Comm’r Soc. Sec. Admin.,  
3 454 F.3d 1050, 1054 (9th Cir. 2006) (citation omitted). Finally, a court may not  
4 reverse an ALJ’s decision if the error is harmless.” Burch v. Barnhart, 400 F.3d  
5 676, 679 (9th Cir. 2005) (citation omitted). “[T]he burden of showing that an  
6 error is harmful normally falls upon the party attacking the agency’s  
7 determination.” Shinseki v. Sanders, 556 U.S. 396, 409 (2009).

### 8 III. DISCUSSION

#### 9 A. Establishing Disability Under The Act

10 To establish whether a claimant is disabled under the Act, it must be shown  
11 that:

12 (a) the claimant suffers from a medically determinable physical or  
13 mental impairment that can be expected to result in death or that has  
14 lasted or can be expected to last for a continuous period of not less than  
15 twelve months; and

16 (b) the impairment renders the claimant incapable of performing the  
17 work that the claimant previously performed and incapable of  
18 performing any other substantial gainful employment that exists in the  
19 national economy.

20 Tackett v. Apfel, 180 F.3d 1094, 1098 (9th Cir. 1999) (citing 42 U.S.C.

21 § 423(d)(2)(A)). “If a claimant meets both requirements, he or she is ‘disabled.’”

22 Id.

23 The ALJ employs a five-step sequential evaluation process to determine  
24 whether a claimant is disabled within the meaning of the Act. Bowen v. Yuckert,  
25 482 U.S. 137, 140 (1987); 20 C.F.R. § 416.920(a). Each step is potentially  
26 dispositive and “if a claimant is found to be ‘disabled’ or ‘not-disabled’ at any step  
27 in the sequence, there is no need to consider subsequent steps.” Tackett, 180 F.3d  
28 at 1098; 20 C.F.R. § 416.920. The claimant carries the burden of proof at steps one

1 through four, and the Commissioner carries the burden of proof at step five.  
2 Tackett, 180 F.3d at 1098.

3 The five steps are:

4 Step 1. Is the claimant presently working in a substantially gainful  
5 activity [(“SGA”)]? If so, then the claimant is “not disabled” within  
6 the meaning of the [] Act and is not entitled to [SSI]. If the claimant is  
7 not working in a [SGA], then the claimant’s case cannot be resolved at  
8 step one and the evaluation proceeds to step two. See 20 C.F.R.  
9 § 404.1520(b).[<sup>3</sup>]

10 Step 2. Is the claimant’s impairment severe? If not, then the  
11 claimant is “not disabled” and is not entitled to [SSI]. If the claimant’s  
12 impairment is severe, then the claimant’s case cannot be resolved at  
13 step two and the evaluation proceeds to step three. See 20 C.F.R.  
14 § 404.1520(c).

15 Step 3. Does the impairment “meet or equal” one of a list of  
16 specific impairments described in the regulations? If so, the claimant is  
17 “disabled” and therefore entitled to [SSI]. If the claimant’s  
18 impairment neither meets nor equals one of the impairments listed in  
19 the regulations, then the claimant’s case cannot be resolved at step  
20 three and the evaluation proceeds to step four. See 20 C.F.R.  
21 § 404.1520(d).

22 Step 4. Is the claimant able to do any work that he or she has  
23 done in the past? If so, then the claimant is “not disabled” and is not  
24 entitled to [SSI]. If the claimant cannot do any work he or she did in  
25 the past, then the claimant’s case cannot be resolved at step four and  
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28 <sup>3</sup> The Court has also considered the parallel regulations set forth in 20 C.F.R. § 416.920 et seq.,  
when analyzing the ALJ’s denial of Plaintiff’s SSI application.

1 the evaluation proceeds to the fifth and final step. See 20 C.F.R.  
2 § 404.1520(e).

3 Step 5. Is the claimant able to do any other work? If not, then  
4 the claimant is “disabled” and therefore entitled to [SSI]. See 20  
5 C.F.R. § 404.1520(f)(1). If the claimant is able to do other work, then  
6 the Commissioner must establish that there are a significant number of  
7 jobs in the national economy that claimant can do. There are two ways  
8 for the Commissioner to meet the burden of showing that there is other  
9 work in “significant numbers” in the national economy that claimant  
10 can do: (1) by the testimony of a vocational expert [(“VE”)], or (2) by  
11 reference to the Medical-Vocational Guidelines at 20 C.F.R. pt. 404,  
12 subpt. P, app. 2. If the Commissioner meets this burden, the claimant  
13 is “not disabled” and therefore not entitled to [SSI]. See 20 C.F.R. §§  
14 404.1520(f), 404.1562. If the Commissioner cannot meet this burden,  
15 then the claimant is “disabled” and therefore entitled to [SSI]. See id.  
16 Id. at 1098-99.

17 **B. Summary Of ALJ’s Findings**

18 The ALJ found at step one that “[Plaintiff] has not engaged in [SGA] since  
19 March 31, 2016, the application date (20 CFR 416.971 et seq..” Tr. 17. At step  
20 two, the ALJ found that “[Plaintiff] has the following severe impairments:  
21 degenerative disc disease of the lumbosacral spine, mild degenerative joint disease  
22 of the right shoulder, and major depressive disorder, moderate (20 CFR  
23 416.920(c)).” Id. At step three, the ALJ found that “[Plaintiff] does not have an  
24 impairment or combination of impairments that meets or medically equals the  
25 severity of one of the listed impairments in 20 CFR Part 404, Subpart P, Appendix  
26 1 (20 CFR 416.920(d), 416.925 and 416.926).” Id.

27 In preparation for step four, the ALJ found that Plaintiff has the residual  
28 functional capacity (“RFC”) to:

1 perform medium work as defined in 20 CFR 416.967(c) except with the  
2 ability to consistently perform only simple, routine tasks and no more  
3 than superficial interaction with the public and no more than occasional  
4 interaction with coworkers.

5 Tr. 18-19. The ALJ then found, at step four, that “[Plaintiff] is unable to perform  
6 any past relevant work (20 CFR 416.965).” Tr. 24.

7 In preparation for step five, the ALJ noted that “[Plaintiff] was born on July  
8 25, 1960[,] and was 55 years old, which is defined as an individual of advanced age,  
9 on the date the application was filed (20 CFR 416.963).” Id. The ALJ observed  
10 that “[Plaintiff] has at least a high school education and is able to communicate in  
11 English (20 CFR 416.964).” Id. The ALJ then added that “[t]ransferability of job  
12 skills is not material to the determination of disability because using the Medical-  
13 Vocational Rules as a framework supports a finding that [Plaintiff] is ‘not disabled,’  
14 whether or not [Plaintiff] has transferable job skills (See SSR 82-41 and 20 CFR  
15 Part 404, Subpart P, Appendix 2).” Id.

16 At step five, the ALJ found that “[c]onsidering [Plaintiff’s] age, education,  
17 work experience, and [RFC], there are jobs that exist in significant numbers in the  
18 national economy that [Plaintiff] can perform (20 CFR 416.969 and 416.969a).”  
19 Tr. 25. Specifically, the ALJ found that Plaintiff could perform the “medium,  
20 unskilled” occupations of “packer[,]” as defined in the dictionary of occupational  
21 titles (“DOT”) at DOT 920.587-018, “store laborer (DOT No. 922.687-058)[,]”  
22 and “vehicle cleaner (DOT No. 919.687-014).” Id. The ALJ based her decision  
23 that Plaintiff could perform the aforementioned occupations “on the testimony of  
24 the [VE]” from the administrative hearing, after “determin[ing] that the [VE’s]  
25 testimony [wa]s consistent with the information contained in the [DOT].” Id.

26 After finding that “[Plaintiff] is capable of making a successful adjustment to  
27 other work that exists in significant numbers in the national economy,” the ALJ  
28 concluded that “[a] finding of ‘not disabled’ is therefore appropriate under the

1 framework of the above-cited rule.” Id. The ALJ, therefore, found that  
2 “[Plaintiff] has not been under a disability, as defined in the Social Security Act,  
3 since March 31, 2016, the date the application was filed (20 CFR 416.920(g)).” Id.

4 **C. Issues Presented**

5 In this appeal, Plaintiff contends the ALJ erred by failing to: (1) properly  
6 consider the opinion of treating physician Dr. Lilit Yegiazaryan; and (2) provide a  
7 complete RFC based on the opinion of consultative examiner Dr. Rashin  
8 D’Angelo. ECF No. 25, Joint Stip. at 15. The Court finds that the second issue is  
9 dispositive, and so it begins and ends its analysis there.

10 **D. Court’s Consideration Of Plaintiff’s Second Issue**

11 **1. Parties’ Arguments**

12 Plaintiff argues that the ALJ failed to account for all of Dr. D’Angelo’s  
13 findings of moderate limitations in the RFC. Id. at 14. Specifically, Plaintiff argues  
14 that the ALJ erred by rejecting Dr. D’Angelo’s opinion that Plaintiff would have  
15 moderate limitations and difficulties in “completing a normal workday and work  
16 week due to his mental condition,” “accepting instructions from supervisors and  
17 interacting with coworkers and with the public,” and being able to “handle the  
18 usual stresses, changes and demands of gainful employment.” Id.

19 Defendant responds that the ALJ properly translated Dr. D’Angelo’s  
20 medical opinion about Plaintiff’s moderate limitations into “specific functional  
21 limitations in the RFC” in the “areas of social interaction as well as concentration,  
22 persistence, and pace,” by “finding that Plaintiff could perform ‘only simple,  
23 routine tasks’ with ‘no more than superficial interaction with the public and no  
24 more than occasional interaction with coworkers.’” Id. at 19.

25 **2. Medical Opinions**

26 **a. Dr. D’Angelo**

27 On August 8, 2016, Dr. D’Angelo performed a consultative psychological  
28 examination of Plaintiff. Tr. 262. Dr. D’Angelo did not have any medical records

1 to review and based his findings entirely on the examination of Plaintiff. Id. Dr.  
2 D'Angelo noted that Plaintiff appeared "disheveled, unkempt, withdrawn, [and]  
3 guarded." Tr. 264. Plaintiff was cooperative and maintained eye contact, but he  
4 had difficulty establishing rapport. Id. His psychomotor activity was slow. Id.  
5 Plaintiff's mood was depressed and irritable and his affect was flat. Id. His thought  
6 processes were linear, and he denied suicidal or homicidal ideations. Id.

7 Dr. D'Angelo conducted a series of tests with Plaintiff and made findings.  
8 Id. Plaintiff registered three out of three items immediately and two out of three  
9 items after five minutes, completed serial threes but struggled with serial sevens,  
10 spelled the word "world" forward but struggled spelling it backwards, stated  
11 similarities but could not analyze simple proverbs, and named the President of  
12 United States but could not identify the capital of either the United States or  
13 California. Id. Dr. D'Angelo diagnosed Plaintiff with Major Depressive Disorder,  
14 Single Episode, Moderate and Psychosocial Stressors, including financial and  
15 health impairment, poor social and family support, and homelessness, and  
16 determined Plaintiff's prognosis was fair. Tr. 265-66. Dr. D'Angelo assessed  
17 Plaintiff's GAF score as 60. Tr. 265.

18 Dr. D'Angelo found that Plaintiff exhibited "mild difficulties" interacting  
19 with the clinic staff and the doctor, "maintaining composure and even  
20 temperament," and "focusing and maintaining attention." Id. He had "moderate  
21 difficulties" in "maintaining social functioning" and "concentration, persistence  
22 and pace." Id.

23 Based on "the objective findings presented during this interview," Dr.  
24 D'Angelo found that Plaintiff would have "no limitations performing simple or  
25 repetitive tasks and mild limitations performing detailed and complex tasks." Id.  
26 He further found that Plaintiff would have "moderate difficulties" and "moderate  
27 limitations" in being able to do the following:

28



- 1 • “perform work activities on a consistent basis without special and additional
- 2 supervision”;
- 3 • “handle the usual stresses, changes and demands of gainful employment”;
- 4 • “complet[e] a normal workday and work week due to his mental condition”;
- 5 and
- 6 • “accept[] instructions from supervisors and interacting with coworkers and
- 7 the public.”

8 Id. Finally, Dr. D’Angelo found that Plaintiff responded “somewhat adequately”  
9 to treatment, and because Plaintiff’s psychosocial stressors exacerbate his  
10 symptoms, adjusting these stressors is required for his symptoms to improve. Id.

11 **b. Dr. Jacobs**

12 As discussed in greater detail below, because the ALJ gave great weight to  
13 the opinion of state agency reviewing physician Dr. Uwe Jacobs, the Court  
14 discusses his opinion here. On August 24, 2016, Dr. Jacobs opined that Plaintiff  
15 was “moderately limited” in being able to do the following:

- 16 • “understand and remember detailed instructions,” but that Plaintiff
- 17 “can perform simple tasks”;
- 18 • “perform activities within a schedule, maintain regular attendance,
- 19 and be punctual within customary tolerances”;
- 20 • “sustain an ordinary routine without special supervision”;
- 21 • “work in coordination with or in proximity to others without being
- 22 distracted by them”;
- 23 • “complete a normal workday and workweek without interruptions
- 24 from psychologically based symptoms and to perform at a consistent
- 25 pace without an unreasonable number and length of rest periods,” but
- 26 that Plaintiff can “sustain [concentration, persistence, and pace] for
- 27 simple tasks”;
- 28 • “interact appropriately with the general public”;

- 1 • “ask simple questions or request assistance”;
- 2 • “accept instructions and respond appropriately to criticism from
- 3 supervisors”;
- 4 • “get along with coworkers or peers without distracting them or
- 5 exhibiting behavioral extremes”;
- 6 • “maintain socially appropriate behavior and to adhere to basic
- 7 standards of neatness and cleanliness,” but Plaintiff “can sufficiently
- 8 get along with others”;
- 9 • “respond appropriately to changes in the work setting,” but Plaintiff
- 10 “can adapt.”

11 Tr. 79-80. Dr. Jacobs further elaborated that Plaintiff is “capable of understanding  
12 and remembering simple instructions and procedures,” “can maintain  
13 concentration, pace and persistence for simple tasks,” “would be best suited to  
14 work with minimal social demands and no public contact,” and “can adapt to a low  
15 demand work setting consistent with simple work.” Tr. 80.

### 16 3. ALJ’s Consideration Of The Medical Opinions

17 The ALJ reviewed Plaintiff’s medical record history and concluded that  
18 Plaintiff’s “primary issue has been his homelessness for several years.” Tr. 24.  
19 The ALJ found that the focus of Plaintiff’s medical records was Plaintiff’s  
20 economic and housing problems, and otherwise “the objective treatment evidence  
21 surrounding his claims of various mental and medical problems is seriously lacking  
22 and inconsistent.” Id. The ALJ also added that Plaintiff was “stable on his  
23 psychiatric medicated regime.” Id.

24 In coming to this conclusion, the ALJ reviewed the opinions of, in relevant  
25 part, Drs. D’Angelo and Jacobs. The ALJ gave Dr. D’Angelo’s opinion “partial  
26 weight” because “Dr. D’Angelo appeared to place significant emphasis on  
27 [Plaintiff’s] homelessness and financial stress as ‘psychological stressors need to be  
28 adjusted including resolution of his living situation in order for his symptoms to

1 improve.’” Tr. 21. The ALJ added that Dr. D’Angelo believed Plaintiff  
2 “exhibited only moderate symptoms of depression” and that Plaintiff had an  
3 “adequate response to psychiatric treatment.” *Id.* The ALJ concluded that “[it]  
4 appears [Dr. D’Angelo] focused on [Plaintiff’s] inadequate housing, versus the  
5 mental condition and its mental limitations, as the basis for his opinion about  
6 [Plaintiff’s] ability to work.” *Id.*

7 Conversely, the ALJ afforded Dr. Jacobs’ opinion “great weight.” Tr. 22.  
8 The ALJ noted that Dr. Jacobs “found [Plaintiff] capable of[:] understanding and  
9 remembering simple instructions and procedures; maintaining concentration,  
10 persistence and pace for simple tasks; work[ing] with minimal social demands and  
11 no public contact; and adapt[ing] to a low demand work setting consistent with  
12 simple work.” Tr. 21. According to the ALJ, such findings were “consistent with  
13 the mental health treatment record as a whole.” Tr. 22.

#### 14 **4. Applicable Legal Standards**

15 The RFC is the maximum a claimant can do despite his limitations. 20  
16 C.F.R. §§ 404.1545, 416.945. In determining the RFC, the ALJ must consider  
17 limitations imposed by all of a claimant’s impairments, even those that are not  
18 severe, and evaluate all of the relevant medical and other evidence, including the  
19 claimant’s testimony. SSR 96-8p, 1996 WL 374184. The ALJ is responsible for  
20 resolving conflicts in the medical testimony and translating the claimant’s  
21 impairments into concrete functional limitations in the RFC. Stubbs-Danielson v.  
22 Astrue, 539 F.3d 1169, 1174 (9th Cir. 2008).

23 There are three types of medical opinions in Social Security cases: those  
24 from treating physicians, examining physicians, and non-examining physicians.  
25 Valentine v. Comm’r Soc. Sec. Admin., 574 F.3d 685, 692 (9th Cir. 2009) (citation  
26 omitted). “The medical opinion of a claimant’s treating physician is given  
27 ‘controlling weight’ so long as it ‘is well-supported by medically acceptable clinical  
28 and laboratory diagnostic techniques and is not inconsistent with the other

1 substantial evidence in [the claimant’s] case record.’” Trevizo v. Berryhill, 871  
2 F.3d 664, 675 (9th Cir. 2017) (quoting 20 C.F.R. § 404.1527(c)(2)).

3 “‘To reject [the] uncontradicted opinion of a treating or examining doctor,  
4 an ALJ must state clear and convincing reasons that are supported by substantial  
5 evidence.’” Id. (quoting Ryan v. Comm’r Soc. Sec. Admin., 528 F.3d 1194, 1198  
6 (9th Cir. 2008)). “This is not an easy requirement to meet: ‘the clear and  
7 convincing standard is the most demanding required in Social Security cases.’”  
8 Garrison v. Colvin, 759 F.3d 995, 1015 (9th Cir. 2014) (quoting Moore v. Comm’r  
9 Soc. Sec. Admin., 278 F.3d 920, 924 (9th Cir. 2002)).

10 “‘If a treating or examining doctor’s opinion is contradicted by another  
11 doctor’s opinion, an ALJ may only reject it by providing specific and legitimate  
12 reasons that are supported by substantial evidence.’” Trevizo, 871 F.3d at 675  
13 (quoting Ryan, 528 F.3d at 1198). “This is so because, even when contradicted, a  
14 treating or examining physician’s opinion is still owed deference and will often be  
15 ‘entitled to the greatest weight . . . even if it does not meet the test for controlling  
16 weight.’” Garrison, 759 F.3d at 1012 (quoting Orn v. Astrue, 495 F.3d 625, 633  
17 (9th Cir. 2007)). “‘The ALJ can meet this burden by setting out a detailed and  
18 thorough summary of the facts and conflicting clinical evidence, stating his  
19 interpretation thereof, and making findings.’” Trevizo, 871 F.3d at 675 (quoting  
20 Magallanes v. Bowen, 881 F.2d 747, 751 (9th Cir. 1989)).

### 21 **5. ALJ’s Decision Is Not Supported By Substantial Evidence.**

22 Here, as an initial matter, the ALJ did not find that the moderate limitations  
23 assessed by Dr. D’Angelo were contradicted by any other medical opinions and,  
24 curiously, Dr. Jacobs—whose opinion the ALJ gave “great weight” to—similarly  
25 concluded that Plaintiff was moderately limited in his ability to work consistently  
26 without special supervision, accept instructions from supervisors, complete a  
27 normal workday and workweek, and handle changes at work. Tr. 22, 79-80, 265.  
28 Thus, because the ALJ did not find that Dr. D’Angelo’s opinion was contradicted

1 by another medical source, and the ALJ instead gave great weight to the similar  
2 opinion of Dr. Jacobs, the ALJ needed to provide clear and convincing reasons for  
3 rejecting Dr. D'Angelo's opinion. See Trevizo, 871 F.3d at 675. However, for the  
4 reasons discussed below, the ALJ failed to do so here.

5 First, the ALJ's rejection of Dr. D'Angelo's opinion—because it was  
6 focused too heavily on Plaintiff's "homelessness and financial stress"—fails  
7 because the ALJ selectively relied on one aspect of Dr. D'Angelo's opinion, while  
8 ignoring other reasons provided by Dr. D'Angelo in support of his findings. Tr. 21;  
9 see Edlund v. Massanari, 253 F.3d 1152, 1159-60 (9th Cir. 2001) (finding that when  
10 weighing medical opinion evidence, the ALJ cannot "selectively focus on aspects of  
11 [a physician's] report which tend to suggest non-disability"); see also Holohan v.  
12 Massanari, 246 F.3d 1195, 1207-08 (9th Cir. 2001) (holding an ALJ cannot  
13 selectively rely on some entries in a plaintiff's records while ignoring others).

14 Specifically, although Dr. D'Angelo did opine that Plaintiff's psychosocial  
15 stressors exacerbate his symptoms and that Plaintiff's symptoms would improve  
16 with adjustment of these stressors, Dr. D'Angelo also listed Plaintiff's health  
17 impairment and poor social and family support as exacerbating psychosocial  
18 stressors in Plaintiff's life. See Tr. 265 (Dr. D'Angelo listing Plaintiff's "financial  
19 and health impairment, poor social and family support[,], and homelessness" as his  
20 "psychosocial stressors" that were exacerbating his symptoms). Thus, in addition  
21 to Plaintiff's financial stress and homelessness, Dr. D'Angelo also listed Plaintiff's  
22 health impairment and poor social and family support as psychological stressors,  
23 which the ALJ failed to consider when rejecting Dr. D'Angelo's opinion.

24 Moreover, Dr. D'Angelo provided factual support for his aforementioned  
25 opinion, which the ALJ ignored when rejecting Dr. D'Angelo's opinion for its  
26 overreliance on Plaintiff's homelessness and financial stress. Specifically, although  
27 Dr. D'Angelo acknowledged that Plaintiff "report[ed] having depression, anxiety,  
28 and confusion" after he "went through a divorce[,] . . . then lost his job of 19

1 years[,] . . . [and then] lost his home and became homeless[,]” Dr. D’Angelo also  
2 elaborated on Plaintiff’s lack of familial support. Tr. 262-63, 265. Specifically, in  
3 terms of familial support, Dr. D’Angelo opined that Plaintiff “does not appear to  
4 have any social family support” and explained that Plaintiff “attended therapy and  
5 counseling [] during his adolescence because of family stressors[,]” Plaintiff “has  
6 no relationship with his family[,]” and Plaintiff “has a 19-year-old child with whom  
7 he has limited contact.” Tr. 263, 265.

8 Next, in terms of social support, Dr. D’Angelo reported that Plaintiff “goes  
9 to places by himself” and that Plaintiff’s “hobbies include spending a day looking  
10 for shade.” Tr. 263-64.

11 Further, Dr. D’Angelo supported his opinion by discussing the clinical  
12 observations he made during his examination of Plaintiff. Specifically, Dr.  
13 D’Angelo explained that Plaintiff arrived to the examination “disheveled,  
14 unkempt, unshaven, and thinly-framed[,]” he “was withdrawn and guarded during  
15 the evaluation[,]” he “had difficulty establishing rapport with the examiner[,]”  
16 “[h]is psychomotor activity was slow[,]” his mood was “depressed and  
17 irritable[,]” his “affect was flat[,]” he was “unable to analyze the meaning of  
18 simple proverbs[,]” or to “identify the capital of the United States or of  
19 California[,]” he “struggled with serial sevens” and with spelling the word  
20 “world” backwards, and he exhibited difficulty “interacting with clinic staff and  
21 [him]self[,]” and with “maintaining composure and even temperament during the  
22 examination. Tr. 262-65.

23 Accordingly, because the ALJ failed to consider the above discussed  
24 evidence when rejecting Dr. D’Angelo’s opinion, the ALJ’s rejection of Dr.  
25 D’Angelo’s opinion for its reliance on Plaintiff’s homelessness and financial stress  
26 was not a clear and convincing reason to reject Dr. D’Angelo’s opinion. Tr. 21.

27 Second, the ALJ’s rejection of Dr. D’Angelo’s opinion because Dr.  
28 D’Angelo believed Plaintiff “exhibited only moderate symptoms of depression”

1 and that Plaintiff had an “adequate response to psychiatric treatment” ignores Dr.  
2 D’Angelo’s opinion that Plaintiff was responding only “somewhat adequately[,]”  
3 to treatment but that “[Plaintiff’s] psychosocial stressors need to be adjusted  
4 including resolving his living situation in order for his symptoms to improve[,]”  
5 and that Plaintiff had only “slight improvements because of his medications.” Tr.  
6 21, 262, 265 (emphasis added). Moreover, the record reveals that Plaintiff’s  
7 medication exacerbates Plaintiff’s memory loss symptoms. See Tr. 49-50  
8 (“Plaintiff testifying that side effects of his medication include “forgetting things  
9 like more frequently than [he] ever ha[s] before.”). Thus, the record reveals that  
10 the ALJ again selectively relied on some evidence when rejecting Dr. D’Angelo’s  
11 opinion while ignoring other reasons provided by Dr. D’Angelo in support of his  
12 findings. Edlund, 253 F.3d at 1159-60; Holohan, 246 F.3d at 1207-08.

13 Third, Dr. D’Angelo’s opinions appear consistent with Plaintiff’s medical  
14 record, which reflects that Plaintiff’s depression affected, among other things, his  
15 social functioning, stress levels, and ability to maintain an ordinary schedule. See  
16 Tr. 250-51, 290, 303-04. And, most significantly, as discussed above, Dr.  
17 D’Angelo’s opinion is supported by Dr. Jacobs’s opinion, which the ALJ gave  
18 “great weight” to because it was “consistent with the mental health treatment  
19 record as a whole.” Tr. 21-22. Moreover, in forming his opinion, Dr. Jacobs gave  
20 great weight to Dr. D’Angelo’s opinion because it was “supported by objective  
21 findings,” and subsequently he mirrored Dr. D’Angelo’s moderate limitations. Tr.  
22 78-80.

23 Accordingly, the Court finds that the ALJ failed to offer legally sufficient  
24 reasons for rejecting Dr. D’Angelo’s opinion. Moreover, because the ALJ failed to  
25 offer legally sufficient reasons for rejecting Dr. D’Angelo’s opinion that Plaintiff  
26 had several moderate limitations (i.e., performing work activities on a consistent  
27 basis without special and additional supervision, accepting instructions from  
28 supervisors, completing a normal workday or workweek, and handling the stresses,

1 changes, and demands of work), the ALJ’s assessment of Plaintiff’s RFC, which  
2 did not include the limitations endorsed by Dr. D’Angelo, is not supported by  
3 substantial evidence. See Lisardo S. v. Berryhill, No. 5:18-cv-00480-AFM, 2019  
4 WL 773686, at \*5-7 (C.D. Cal. Feb. 20, 2019) (finding that the ALJ erred in  
5 rejecting some of the consultative examiner’s opinions about plaintiff’s moderate  
6 limitations, where the ALJ’s decision to afford the consultative examiner’s opinion  
7 partial weight was not supported by substantial evidence). As such, remand for  
8 further proceedings is appropriate so that the ALJ may reassess Dr. D’Angelo’s  
9 opinion.

10 **IV. CONCLUSION**

11 Because the Commissioner’s decision is not supported by substantial  
12 evidence, IT IS HEREBY ORDERED that the Commissioner’s decision is  
13 **REVERSED** and this case is **REMANDED** for further administrative proceedings  
14 under sentence four of 42 U.S.C. § 405(g). See Garrison, 759 F.3d at 1009  
15 (holding that under sentence four of 42 U.S.C. § 405(g), “[t]he court shall have  
16 power to enter . . . a judgment affirming, modifying, or reversing the decision of the  
17 Commissioner . . . , with or without remanding the cause for a rehearing”) (citation  
18 and internal quotation marks omitted).

19  
20 IT IS SO ORDERED.

21  
22 DATED: 6/8/2020

23   
24 HONORABLE SHASHI H. KEWALRAMANI  
25 United States Magistrate Judge  
26  
27  
28