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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SANDRA B.,¹
Plaintiff

v.

KILOLO KIJAKAJI, Acting
Commissioner of Social Security,
Defendant.

Case No. 2:20-cv-011359-GJS

**MEMORANDUM OPINION AND
ORDER**

I. PROCEDURAL HISTORY

Plaintiff Sandra B. (“Plaintiff”) filed a complaint seeking review of the decision of the Commissioner of Social Security denying her applications for Supplemental Security Income (“SSI”) and Childhood Disability Income Benefits. The parties filed consents to proceed before the undersigned United States Magistrate Judge (Dkts. 11, 12) and briefs addressing disputed issues in the case [Dkt. 20 (“Pltf.’s Br.”) and Dkt. 21 (“Def.’s Br.”)]. The matter is now ready for decision. For the reasons discussed below, the Court finds that this matter should be

¹ In the interest of privacy, this Order uses only the first name and the initial of the last name of the non-governmental party in this case.

1 remanded.

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II. ADMINISTRATIVE DECISION UNDER REVIEW

Plaintiff filed applications for benefits on June 1, 2018, alleging disability beginning on July 19, 2006. [Dkt. 15, Administrative Record (“AR”) 184-186.] Plaintiff’s applications were denied at the initial level of review and on reconsideration. [AR 47-61, 92-103.] A hearing was held before Administrative Law Judge Diana J. Coburn (“the ALJ”) on March 18, 2020. [AR 33-46.]

On April 1, 2020, the ALJ issued an unfavorable decision applying the five-step sequential evaluation process for assessing disability. [AR 17-28.] At step one, the ALJ determined that Plaintiff has not engaged in substantial gainful activity since the alleged onset date. [AR 19.] At step two, the ALJ determined that Plaintiff has the following severe impairments: multiple sclerosis, obesity, and depression. [AR 19.] At step three, the ALJ determined that Plaintiff does not have an impairment or combination of impairments that meets or medically equals the severity of one of the impairments listed in Appendix I of the Regulations. [AR 20]; *see* 20 C.F.R. Pt. 404, Subpt. P, App. 1. The ALJ found that Plaintiff has the residual functional capacity (“RFC”) to perform sedentary work, except:

she must never climb ladders ropes or scaffolds; she can occasionally climb ramps and stairs, balance, stoop, kneel, crouch, and crawl; she is precluded from exposure to unprotected heights and dangerous moving machinery; she can perform simple and routine tasks; and she can make simple work-related decisions.

[AR 22.]

At step four, the ALJ determined that Plaintiff, who had not attained the age of 22 years old as of the alleged disability onset date, had no past relevant work. [AR 28.] At step five, the ALJ found that considering Plaintiff’s age, which meets the definition of a younger individual, and her education, work experience, and

1 RFC, there are jobs that exist in significant number in the national economy that she
2 can perform. [AR 28.] Based on these findings, the ALJ found Plaintiff not
3 disabled through the date of the decision. [AR 28.]

4 Plaintiff sought review of the ALJ's decision, which the Appeals Council
5 denied, making the ALJ's decision the Commissioner's final decision. [AR 1-6.]
6 This action followed. Plaintiff raises the following issues challenging the ALJ's
7 findings and determination of non-disability:

8 1. Whether the ALJ properly evaluated the treating opinion of
9 physician Margaret Burnett, M.D.; and

10 2. Whether the ALJ failed to properly evaluate Plaintiff's testimony.

11 Defendant asserts that the ALJ's decision should be affirmed, or in the
12 alternative, remanded for further development of the record if the Court finds the
13 ALJ erred.

14 15 **III. GOVERNING STANDARD**

16 Under 42 U.S.C. § 405(g), the Court reviews the Commissioner's decision to
17 determine if: (1) the Commissioner's findings are supported by substantial
18 evidence; and (2) the Commissioner used correct legal standards. *See Carmickle v.*
19 *Comm'r Soc. Sec. Admin.*, 533 F.3d 1155, 1159 (9th Cir. 2008); *Brewes v. Comm'r*
20 *Soc. Sec. Admin.*, 682 F.3d 1157, 1161 (9th Cir. 2012). "Substantial evidence ... is
21 'more than a mere scintilla' ... [i]t means – and only means – 'such relevant
22 evidence as a reasonable mind might accept as adequate to support a conclusion.'" *Biestek v. Berryhill*, 139 S. Ct. 1148, 1154 (2019) (citations omitted); *Gutierrez v.*
23 *Comm'r of Soc. Sec.*, 740 F.3d 519, 522-23 (9th Cir. 2014) (internal quotation marks
24 and citation omitted).

25
26 The Court will uphold the Commissioner's decision when "the evidence is
27 susceptible to more than one rational interpretation." *See Molina v. Astrue*, 674
28 F.3d 1104, 1110 (9th Cir. 2012), *superseded on other grounds by* 20 C.F.R. §

1 404.1502(a). However, the Court may review only the reasons stated by the ALJ in
2 his decision “and may not affirm the ALJ on a ground upon which he did not rely.”
3 *Orn v. Astrue*, 495 F.3d 625, 630 (9th Cir. 2007). The Court will not reverse the
4 Commissioner’s decision if it is based on harmless error, which exists if the error is
5 “inconsequential to the ultimate nondisability determination, or if despite the legal
6 error, the agency’s path may reasonably be discerned.” *Brown-Hunter v. Colvin*,
7 806 F.3d 487, 492 (9th Cir. 2015) (internal quotation marks and citations omitted).

8 9 **IV. DISCUSSION**

10 **A. The ALJ Improperly Evaluated Dr. Burnett’s Opinion**

11 The first issue in dispute is whether the ALJ properly evaluated the medical
12 evidence. Specifically, whether the ALJ provided a sufficient justification,
13 supported by substantial evidence, for finding that the treating neurologist’s opinion
14 was not persuasive. For the reasons discussed below, reversal and remand for
15 further administrative proceedings are warranted on this issue. Having found that
16 remand is warranted, the Court declines to address Plaintiff’s remaining arguments.
17 *See Hiler v. Astrue*, 687 F.3d 1208, 1212 (9th Cir. 2012) (“Because we remand the
18 case to the ALJ for the reasons stated, we decline to reach [plaintiff’s] alternative
19 ground for remand.”); *see also Augustine ex rel. Ramirez v. Astrue*, 536 F. Supp. 2d
20 1147, 1153 n.7 (C.D. Cal. 2008) (“[The] Court need not address the other claims
21 plaintiff raises, none of which would provide plaintiff with any further relief than
22 granted, and all of which can be addressed on remand.”).

23 **1. Relevant Law**

24 “The ALJ is responsible for translating and incorporating clinical findings
25 into a succinct RFC.” *Rounds v. Comm’r Soc. Sec. Admin.*, 807 F.3d 996, 1006 (9th
26 Cir. 2015). In doing so, the ALJ must articulate a “substantive basis” for rejecting a
27 medical opinion or crediting one medical opinion over another. *Garrison v. Colvin*,
28 759 F.3d 995, 1012 (9th Cir. 2014). Under prior Ninth Circuit law, an ALJ must

1 provide “clear and convincing reasons” supported by substantial evidence before
2 rejecting a treating or examining physician’s uncontradicted opinion and “specific
3 and legitimate reasons” supported by substantial evidence before rejecting a treating
4 or examining physician’s contradicted opinion. *Trevizo v. Berryhill*, 871 F.3d 664,
5 675 (9th Cir. 2017); *Ghanim v. Colvin*, 763 F.3d 1154, 1160-1161 (9th Cir. 2014).
6 An ALJ could meet this burden “by setting out a detailed and thorough summary of
7 the facts and conflicting clinical evidence, stating his interpretation thereof, and
8 making findings.” *Trevizo*, 871 F.3d at 675 (quoting *Magallanes v. Bowen*, 881
9 F.2d 747, 751 (9th Cir. 1989)).

10 However, because Plaintiff filed her applications after March 27, 2017, her
11 claim is governed by the SSA revised regulations. *See* Revisions to Rules
12 Regarding the Evaluation of Medical Evidence, 82 Fed. Reg. 5844-01 (Jan. 18,
13 2017). The revised regulations provide that the Commissioner “will not defer or
14 give any specific evidentiary weight ... to any medical opinion(s) ... including those
15 from [the claimant’s] medical sources.” 20 C.F.R. §§ 404.1520c(a), 416.920c(a).
16 Under the revised regulations, an ALJ need “not defer or give any specific
17 evidentiary weight, including controlling weight, to any medical opinion(s) or prior
18 administrative finding(s), including those from [a claimant’s] medical sources.” *See*
19 20 C.F.R. §§ 404.1520c(a), 416.920c(a). An ALJ is to evaluate medical opinions
20 and prior administrative medical findings by evaluating their “persuasiveness.” *Id.*
21 In determining how “persuasive” a medical source’s opinions are, an ALJ must
22 consider the following factors: supportability, consistency, treatment or examining
23 relationship, specialization, and “other factors.” 20 C.F.R. §§ 404.1520c(c)(1)-(5),
24 416.920c(c)(1)-(5). Supportability and consistency are “the most important factors.”
25 20 C.F.R. §§ 404.1520c(a), 416.920c(a). In *Woods v. Kijakazi*, 32 F.4th 785 (9th
26 Cir. 2022), the Ninth Circuit concluded that the revised regulations “displaced” prior
27 Ninth Circuit case law establishing a hierarchy of, or deference to, medical opinions.
28 *Woods*, 32 F.4th at 787, 789-792; *see also Jeanett M. v. Kijakazi*, 2022 U.S. Dist.

1 LEXIS 76683, 2022 WL 1239344, at *3 (N.D. Cal. Apr. 27, 2022).

2 While the ALJ must articulate how he or she considered supportability and
3 consistency, an explanation for the remaining factors is not required except when
4 deciding among differing yet equally persuasive opinions or findings on the same
5 issue. See 20 C.F.R. §§ 404.1520c(b), 416.920c(b); *Woods*, 32 F.4th at 792. Under
6 the new regulations, “an ALJ’s decision, including the decision to discredit any
7 medical opinion, must simply be supported by substantial evidence.” *Woods*, 32
8 F.4th at 787. Nevertheless,

9 Even under the new regulations, an ALJ cannot reject an examining or
10 treating doctor’s opinion as unsupported or inconsistent without
11 providing an explanation supported by substantial evidence. The
12 agency must “articulate ... how persuasive” it finds “all of the medical
13 opinions” from each doctor or other source, 20 C.F.R. § 404.1520c(b),
14 and “explain how [it] considered the supportability and consistency
15 factors” in reaching these findings, *id.* § 404.1520c(b)(2).

15 **2. Relevant Medical Record**

16 Plaintiff was born in July 1990, and she was 15 years of age on her alleged
17 disability onset date. [AR 47, 184.] At the administrative hearing, Plaintiff testified
18 that she dropped out of high school before her senior year after suffering from a
19 seizure in 2006. [AR 37, 205, 716-717, 757.] Following her seizure, Plaintiff
20 reported spending two weeks in the hospital where she was diagnosed with multiple
21 sclerosis (“MS”). [AR 757.] In her function report, Plaintiff stated that her MS
22 causes “pain and weakness on a daily basis.” [AR 225.] Her MS also causes
23 memory loss, cognitive impairment, and it limits her ability to concentrate. [AR
24 225.]

25 On June 30, 2011, Plaintiff began treating with Dr. Burnett, a board-certified
26 neurologist. [AR 757.] Dr. Burnett provided treatment for Plaintiff’s MS,
27 depression, and cognitive impairment at Harbor UCLA and Rancho Los Amigos
28 Rehabilitation Center from 2011 through at least October 2019. [AR 407-409, 413-

1 419, 425-426, 451-456, 458-459, 476-478, 733, 743, 909, 1475-1498.]

2 At her June 2011 examination, Plaintiff reported being “fairly stable” on
3 Rebif injections and experiencing “no relapse” during 2010. [AR 757.] Plaintiff
4 complained of being “forgetful” and she had “some problems with concentration.”
5 [AR 758.] Dr. Burnett noted Plaintiff was “slightly slow,” but could “give a good
6 history” using “normal language.” [AR 758.] Dr. Burnett continued Plaintiff’s
7 medication and referred her “to vocational rehab for the possibility of work
8 exploration, as well as the possibility of finishing her GED.” [AR 759.]

9 In, or around, February 2012, Plaintiff became pregnant. [AR 578.] A few
10 months after the birth of her daughter, in April 2013, Plaintiff reported she was on
11 no medications. [AR 974.] She informed her provider that her ability to walk was
12 “not limited,” but she was “weak and numb on her right side including her arm and
13 leg,” so she had to carry her daughter on her left. [AR 974.] Plaintiff’s cognition
14 was noted as “within normal limits” (AR 974), however her comprehension was
15 noted as “mildly slow.” [AR 975.]

16 Later in 2013, Dr. Burnett indicated that Plaintiff had poor compliance with
17 her medications because she could not manage the injections. [AR 755.] Dr.
18 Burnett referred Plaintiff to physical therapy “to improve the strength and use of her
19 upper extremities.” [AR 755.] Dr. Burnett also discussed sending Plaintiff for a
20 clinical trial at USC, but she noted that it would require “careful discussion” with
21 Plaintiff who had been noncompliant with her medication. [AR 755.] In December
22 of the same year, Plaintiff complained of weakness but reported having no pain.
23 Upon examination, Dr. Burnett noted that Plaintiff appeared to be “weak bilaterally
24 with some limp on the left.” [AR 743.] She was given a five-day course of steroids.
25 [AR 743.]

26 By April 2014, Plaintiff was being treated with Tysabri infusions which she
27 was tolerating well without any issues. [AR 751.] Plaintiff, however, complained
28 of “some problems with concentration and depression.” [AR 751.] She reported

1 “doing fairly well,” having “lots of energy,” sleeping well, and “tolerating” her
2 protocol. [AR 751.] But she also reported that she “occasionally feels as if she is
3 going to fall when walking.” [AR 751.]

4 On May 17, 2014, Plaintiff went to the emergency room requesting a
5 “Tysabri injection” as prescribed by Dr. Burnett. [AR 563.] Plaintiff presented with
6 complaints of intermittent dizziness, double vision, right leg burning sensation, and
7 “MS flare ups.” [AR 563.] Plaintiff reported that she was previously taking Tysabri
8 which “helped with her symptoms,” but she had last received the medication two
9 months ago. [AR 563.] Plaintiff explained that she went to a facility in Torrance to
10 receive her infusion, but she was denied “likely because of insurance reasons.” [AR
11 563.] Dr. Burnett instructed Plaintiff to go to Harbor UCLA to get the infusion and
12 “she waited for over 12 hours at Harbor UCLA [but] was not seen.” [AR 563.]

13 In 2015, and 2016, Plaintiff reported increased symptoms after missing her
14 monthly Tysabri injections for three months “because of insurance issues.” [AR
15 566, 748.] At that time, Plaintiff reported walking an hour per day with her
16 daughter and riding a stationary bicycle for exercise. [AR 837, 894, 897.]
17 However, Dr. Burnett completed paperwork for Plaintiff so that she could obtain a
18 “parking sticker as it is somewhat difficult for [Plaintiff] to walk far distances.”
19 [AR 901.] Upon examination, her clinical findings were noted as “stable” with
20 some slight weakness, and a mild cognitive impairment. [AR 562, 564, 749, 752,
21 837-39, 891, 894, 895-96, 898].

22 In 2017 and 2018, Plaintiff lived with her boyfriend and pre-school-aged
23 child, for whom she provided regular care. [See AR 734, 807.] During this time,
24 Plaintiff continued to receive her scheduled infusion treatments (see, e.g., AR 428,
25 794, 796, 799), exercise on a regular basis (see, e.g., AR 433, 473, 488, 828, 949),
26 and she was generally stable. [See, e.g., AR 464, 488, 537, 795, 809.]

27 On September 17, 2018, Plaintiff attended a consultative neurological
28 examination for her disability claim conducted by neurologist Robert Moore, M.D.

1 [AR 725-729.] At the time of the examination, Dr. Moore expressed that he did not
2 “have access to [Plaintiff’s] medical records.” [AR 728.] Plaintiff reported that “at
3 the current time,” her legs feel weak. [AR 726.] However, Dr. Moore noted that
4 Plaintiff could “arise from a chair unassisted.” [AR 727.] She exhibited “possibly a
5 mild left foot drop with a minor tendency to circumduct the left leg and [she] does
6 not heel-toe or tandem walk.” [AR 727.]

7 During the consultative examination, Plaintiff was able to recall two of three
8 objects after five minutes; she had mildly decreased rapid alternating movements in
9 her toes and slightly slow performance of heel-shin test, and she had reduced (1/4)
10 reflexes and only mildly reduced (5-/5 to 4+/5) motor strength. [AR 727-28.] Dr.
11 Moore opined that Plaintiff had the capacity for a range of light exertion work, with
12 the ability to stand or walk two hours in an eight-hour workday. [AR 728-29.] Dr.
13 Moore additionally opined that Plaintiff was “cognitively intact.” [AR 729.]

14 On February 19, 2020, Dr. Burnett completed a residual functional capacity
15 questionnaire. [AR 1485-1489.] Dr. Burnett opined, among other limitations, that
16 Plaintiff could stand or walk less than two hours in an eight-hour workday and
17 would miss three days of work per month. [AR 26, 1487.] Dr. Burnett additionally
18 opined that Plaintiff could stand for only five minutes at a time before requiring rest
19 and could sit for no more than two hours before needing to get up. [AR 1487.]

20 The ALJ gave the following reasons for finding Dr. Burnett’s opinion
21 unpersuasive:

22
23 This opinion is unpersuasive because it is brief, conclusory, and
24 inadequately supported by objective findings. Dr. Burnett did not
25 support her opinion with an explanation for this assessment. She
26 primarily summarized in the treatment notes claimant’s subjective
27 complaints, diagnoses and treatment but failed to provide medically
28 acceptable clinical or diagnostic findings to support her restrictive
assessment. Moreover, her opinion is inconsistent with the record as a
whole, which revealed some benign objective findings, but with many
physical and neurological examinations in which objective findings

1 were unremarkable. It is also inconsistent with the routine and
2 conservative treatment involving medications, which the claimant
admitted was effective in controlling her symptoms.

3 [AR 26.]
4

5 3. Analysis

6 Plaintiff argues that the ALJ failed to adequately articulate why she found the
7 2020 opinion of treating neurologist, Margaret Burnett, M.D. unpersuasive. [Pltf.'s
8 Br. at 5-12; AR 1485-1489.] Plaintiff argues that the ALJ provided a boilerplate
9 reasoning that was unsupported by substantial evidence. Additionally, Plaintiff
10 maintains that because her symptoms “wax and wane,” the ALJ should not have
11 relied on the one-time examination by the consultative examiner. Rather, the ALJ
12 should have found the opinion of Plaintiff’s long time treatment specialist most
13 persuasive as it was supported by extensive treatment notes and diagnostic findings.
14 (Pltf.’s Br. at 10.)

15 The Court agrees with Plaintiff. The ALJ’s evaluation of the opinion of Dr.
16 Burnett did not satisfy the agency’s articulation requirement for the persuasiveness
17 of medical opinions. The ALJ failed to engage with Dr. Burnett’s assessment in any
18 meaningful sense and made only a passing assessment of the “supportability” and
19 “consistency” factors that the Commissioner deems most important. 82 Fed. Reg. at
20 5853. The ALJ’s apparent analysis of the “supportability” factor is limited to the
21 boilerplate statement that Dr. Burnett did not support her opinion with “medically
22 acceptable clinical or diagnostic findings to support her restrictive assessment.”
23 [AR 26.] This fails to provide any substantive reason for rejecting Dr. Burnett’s
24 detailed treatment notes that were supported by MRI’s, blood tests, clinic
25 interviews, and a detailed history demonstrating medication management for
26 Plaintiff’s recurring and relapsing MS symptoms. [See e.g. AR 760, 762, 766.] For
27 example, on May 22, 2014, Dr. Burnett noted “we obtained an MRI of the brain and
28 the orbits with and without contrast today stat. Per my read, she has multiple

1 enhancing lesions which are also pointed out by Neuroradiology. She has an
2 enhancing right optic nerve despite 3 days of treatment.” [AR 749.] Plaintiff had
3 additional MRI’s in February 2017 and January 2018. [AR 1375

4 While the ALJ found that Dr. Burnett’s treatment notes merely summarized
5 Plaintiff’s “subjective complaints,” Dr. Burnett’s opinion was based on both
6 Plaintiff’s statements and Dr. Burnett’s many examinations, including mental status
7 examinations. Clinical interviews and mental status evaluations are “objective
8 measures and cannot be discounted as a ‘self-report.’” *Buck v. Berryhill*, 869 F.3d
9 1040, 1049 (9th Cir. 2017). Given the existence of objective clinical and diagnostic
10 evidence underlying Dr. Burnett’s opinion, the ALJ’s conclusory statement
11 otherwise was insufficient as an explanation for how the factor of supportability was
12 considered. *See Maria S. v. Kijakazi*, No. 2:20-cv-09783-MAA, 2022 U.S. Dist.
13 LEXIS 66967 (C.D. Cal. Apr. 11, 2022) (citing *Steele v. Saul*, 520 F. Supp. 3d 1198,
14 1210 (D. Alaska 2021) (“But, ‘[t]he Commissioner’s new regulations still require
15 the ALJ to explain his or her reasoning, and to specifically address how he or she
16 considered the supportability and consistency of the opinion.’”). The ALJ’s single-
17 sentence statement fails to substantively engage with Dr. Burnett’s assessment.

18 The same conclusion applies to the ALJ’s apparent analysis of “consistency.”
19 The ALJ found that Dr. Burnett’s opinion was inconsistent with the record which
20 revealed “some benign objective findings, but [] many physical and/or neurological
21 examinations in which the objective findings were unremarkable.” [AR 26.] Based
22 on the ALJ’s statement, the record consisted of (1) benign objective findings; (2)
23 unremarkable physical examinations; and (3) unremarkable neurological
24 examinations. This statement mischaracterizes the record. The record included
25 evidence that Plaintiff suffered from flare ups and an “aggressive” exacerbation of
26 her MS symptoms sometimes requiring steroid treatments. [AR 743, 748, 1132,
27 1137, 1140.] Further, even while adhering to her Tysabri injections, in December
28 2018, Plaintiff reported that she “went to the ER” after she fell, hit her head, and lost

1 consciousness for five minutes after her “leg buckled and she fell.” [AR 938.]
2 Additionally, Plaintiff regularly presented to medical visits with facial asymmetry,
3 numbness and tingling in her legs, balance issues, foot drop, a slow gait, a limp, and
4 muscle weakness. [AR 727, 728, 734, 745, 749, 752, 758, 791, 891, 839, 976,
5 1211.] While there is some evidence to suggest that Plaintiff’s MS symptoms
6 escalated on an intermittent basis due to lack of medication, substantial evidence
7 does not support the ALJ’s finding that the record included only unremarkable and
8 benign objective findings.

9 In opposing Plaintiff’s motion, Defendant has attempted to offer the reasoning
10 and specificity that is absent from the ALJ’s opinion. (Def.’s Br at 19-22.) For
11 example, Defendant argues that Dr. Burnett’s opinion is “internally inconsistent,” a
12 rationale not mentioned by the ALJ. The Court, however, may not speculate as to
13 the ALJ’s findings or the basis of the ALJ’s unexplained conclusions. *See Burrell v.*
14 *Colvin*, 775 F.3d 1133, 1138 (9th Cir. 2014) (“We are constrained to review the
15 reasons the ALJ asserts.”); *Bray v. Commissioner of Social Security Admin.*, 554
16 F.3d 1219, 1225 (9th Cir. 2009) (“Long-standing principles of administrative law
17 require us to review the ALJ’s decision based on the reasoning and factual findings
18 offered by the ALJ—not post hoc rationalizations that attempt to intuit what the
19 adjudicator may have been thinking.”); *Stout v. Comm’r*, 454 F.3d 1050, 1054 (9th
20 Cir. 2006) (a reviewing court cannot affirm an ALJ’s decision denying benefits on a
21 ground not invoked by the Commissioner). The Court is constrained to review the
22 explanation actually provided by the ALJ. *Connett v. Barnhart*, 340 F.3d 871, 874
23 (9th Cir. 2003) (citing *SEC v. Chenery Corp.*, 332 U.S. 194, 196, 67 S. Ct. 1575, 91
24 L. Ed. 1995 (1947)). The only explanation actually provided by the ALJ for the
25 factors of supportability and consistency was conclusory and, therefore, failed to
26 satisfy the agency’s articulation requirement. Remand is warranted on this issue.

27 V. CONCLUSION

28 The Court has discretion to remand or reverse and award benefits. *See*

1 *Trevizo*, 871 F.3d at 682. Where no useful purpose would be served by further
2 proceedings and the record has been fully developed, it may be appropriate to
3 exercise this discretion to direct an immediate award of benefits. *See id.* at 682-83.
4 But where there are outstanding issues that must be resolved before a determination
5 of disability can be made or it is not clear from the record that the ALJ would be
6 required to find a claimant disabled if all the evidence were properly evaluated,
7 remand is appropriate. *See Garrison*, 759 F.3d at 1021 (if “an evaluation of the
8 record as a whole creates serious doubt that a claimant is, in fact, disabled,” a court
9 must remand for further proceedings).

10 The Court finds that remand is appropriate because the circumstances of this
11 case suggest that further administrative review could remedy the ALJ’s errors. *See*
12 *Treichler v. Comm’r of Soc. Sec. Admin.*, 775 F.3d 1090, 1101 (9th Cir. 2014)
13 (remand for award of benefits is inappropriate where “there is conflicting evidence,
14 and not all essential factual issues have been resolved”). On remand, the ALJ
15 should conduct a review of the entire record in a manner consistent with the Court’s
16 findings.

17 For all of the foregoing reasons, **IT IS ORDERED** that:

- 18 (1) the Decision of the Commissioner is REVERSED and this matter
19 REMANDED pursuant to sentence four of 42 U.S.C. § 405(g) for further
20 administrative proceedings consistent with this Order; and
21 (2) Judgment be entered in favor of Plaintiff.

22
23 **IT IS SO ORDERED.**

24
25 DATED: July 08, 2022

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28 _____
GAIL J. STANDISH
UNITED STATES MAGISTRATE JUDGE