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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

VALERIE LYNN JACQUEZ

Plaintiff

v.

NANCY A. BERRYHILL¹, Acting
Commissioner of Social Security,

Defendant.

Case No. 5:16-cv-02239-GJS

**MEMORANDUM OPINION AND
ORDER**

I. PROCEDURAL HISTORY

Plaintiff Valerie Lynn Jacquez (“Plaintiff”) filed a complaint seeking review of Defendant Commissioner of Social Security’s (“Commissioner”) denial of her application for Supplemental Security Income (“SSI”). The parties filed consents to proceed before the undersigned United States Magistrate Judge [Dkts. 10, 12] and briefs addressing disputed issues in the case [Dkt. 17 (“Pltf.’s Br.”) and Dkt. 18 (“Def.’s Br.”)]. The Court has taken the parties’ briefing under submission without oral argument. For the reasons discussed below, the Court finds that this matter should be remanded for further proceedings.

II. ADMINISTRATIVE DECISION UNDER REVIEW

On April 29, 2013, Plaintiff filed an application for SSI. [Dkt. 15, Administrative Record (“AR”) 9, 121-126.] The Commissioner denied her initial claim for benefits on August 20, 2013, and upon reconsideration on February 24, 2014. [AR 9, 40-50, 53-65.] On June 3, 2015, a hearing was held before

1 Administrative Law Judge (“ALJ”) Dante M. Alegre. [AR 24-39.] On August 5,
2 2015, the ALJ issued a decision denying Plaintiff’s request for benefits. [AR 9-23.]

3 Plaintiff requested review from the Appeals Council, which denied review on
4 September 7, 2016. [AR 1-5.]

5 Applying the five-step sequential evaluation process, the ALJ found that
6 Plaintiff was not disabled. *See* 20 C.F.R. §§ 416.920(b)-(g)(1). At step one, the
7 ALJ concluded that Plaintiff had not engaged in substantial gainful activity since
8 April 29, 2013, the alleged onset date. [AR 11.] At step two, the ALJ found that
9 Plaintiff suffered from the following severe impairments: bipolar disorder; psychotic
10 disorder; and post-traumatic stress disorder. [*Id.* (citing 20 C.F.R. § 416.920(c)).]
11 Next, the ALJ determined that Plaintiff did not have an impairment or combination
12 of impairments that meets or medically equals the severity of one of the listed
13 impairments. [AR 13 (citing 20 C.F.R. Part 404, Subpart P, Appendix 1; 20 C.F.R.
14 §§ 416.920(d), 416.925, and 416.926).]

15 The ALJ found that Plaintiff had the following residual functional capacity
16 (RFC):

17 [C]laimant has the residual functional capacity to perform
18 a full range of work at all exertional levels but with the
19 following nonexertional limitations: unskilled work with
occasional public contact.

20 [AR 15.] Applying this RFC, the ALJ found that Plaintiff had no past relevant
21 work, but determined that based on her age (37 years old), high school education,
22 and ability to communicate in English, she could perform representative occupations
23 such as cleaner (Dictionary of Occupational Titles (“DOT”) 381.687-018), hand
24 packager (DOT 920.587-018), and packing machine operator (DOT 920.685-078)
25 and, thus, is not disabled. [AR 18-19.]

26 **III. GOVERNING STANDARD**

27 Under 42 U.S.C. § 405(g), the Court reviews the Commissioner’s decision to
28 determine if: (1) the Commissioner’s findings are supported by substantial evidence;

1 and (2) the Commissioner used correct legal standards. *See Carmickle v. Comm’r*
2 *Soc. Sec. Admin.*, 533 F.3d 1155, 1159 (9th Cir. 2008); *Hoopai v. Astrue*, 499 F.3d
3 1071, 1074 (9th Cir. 2007). Substantial evidence is “such relevant evidence as a
4 reasonable mind might accept as adequate to support a conclusion.” *Richardson v.*
5 *Perales*, 402 U.S. 389, 401 (1971) (internal citation and quotations omitted); *see*
6 *also Hoopai*, 499 F.3d at 1074.

7 IV.DISCUSSION

8 Plaintiff contends that the ALJ erred by failing to articulate valid reasons for
9 assigning “little weight” to the opinion of Plaintiff’s treating physician, Jeremiah
10 Umakanthan, M.D. [Pltf.’s Br. at 2-5.] The Court agrees.

11 “The medical opinion of a [Plaintiff’s] treating physician is given controlling
12 weight’ so long as it ‘is well-supported by medically acceptable clinical and
13 laboratory diagnostic techniques and is not inconsistent with other substantial
14 evidence in [the Plaintiff’s] case record.” *Trevizo v. Berryhill*, 871 F.3d 664, 675
15 (9th Cir. 2017) (internal quotation omitted). “When a treating physician’s opinion is
16 not controlling, it is weighted according to factors such as the length of the
17 treatment relationship and the frequency of examination, the nature and extent of the
18 treatment relationship, supportability, consistency with the record, and
19 specialization of the physician.” *Id.*

20 “To reject [the] uncontradicted opinion of a treating or examining doctor, an
21 ALJ must state clear and convincing reasons that are supported by substantial
22 evidence.” *Ryan v. Comm’r of Soc. Sec. Admin.*, 528 F.3d 1194, 1198 (9th Cir.
23 2008) (alteration in original) (internal quotation omitted). “If a treating or
24 examining doctor’s opinion is contradicted by another doctor’s opinion, an ALJ may
25 only reject it by providing specific and legitimate reasons that are supported by
26 substantial evidence. *Bayliss v. Barnhart*, 427 F.3d 1211, 1216 (9th Cir. 2005); *see*
27 *also Reddick v. Chater*, 157 F.3d 715, 725 (9th Cir. 1998) (“[The] reasons for
28 rejecting a treating doctor’s credible opinion on disability are comparable to those

1 required for rejecting a treating doctor’s medical opinion.”). “The ALJ can meet
2 this burden by setting out a detailed and thorough summary of the facts and
3 conflicting clinical evidence, stating his interpretation thereof, and making
4 findings.” *Magallanes v. Bowen*, 881 F.2d 747, 751 (9th Cir. 1989) (internal
5 quotation omitted).

6 On April 28, 2015, Plaintiff’s treating physician, Dr. Umakanthan, wrote a
7 letter indicating that Plaintiff had been diagnosed with bipolar disorder, psychotic
8 disorder, and posttraumatic stress disorder. [AR 342.] Dr. Umakanthan reported
9 that these disorders manifest themselves in “depression, visual and auditory
10 hallucinations, paranoia, mania, nightmares, and black outs.” [*Id.*] Dr. Umakanthan
11 opined that Plaintiff’s “condition causes a lack of motivation and causes her to
12 isolate and at this time [she] is unable to work.” [*Id.*]

13 The ALJ provided only one reason for assigning less weight to Dr.
14 Umakanthan’s opinion: “the evidence of the record...does not support such an
15 extreme statement.” [AR 17.] However, this reason was an inadequate basis for
16 rejecting Umakanthan’s opinion because it fails to reach the level of specificity
17 required for rejecting a treating source opinion. *See Embrey v. Bowen*, 849 F.2d
18 418, 421-22 (9th Cir. 1988) (“To say that medical opinions are not supported by
19 sufficient objective findings or are contrary to the preponderant conclusions
20 mandated by the objective findings does not achieve the level of specificity our prior
21 cases have required . . . The ALJ must do more than offer his conclusions. He must
22 set forth his own interpretations and explain why they, rather than the doctors’, are
23 correct.”) (footnote omitted). While the ALJ summarized the objective findings in
24 his decision, the ALJ failed to specifically explain how they conflicted with Dr.

25 Umakanthan’s assessment of Plaintiff’s mental impairments. *Id.*

26 Second, the ALJ stated that he assigned “great weight” to the opinions of the
27 State agency medical consultants who found that Plaintiff was capable of simple,
28 routine tasks in a setting ranging from no work involving extensive interactions with

1 the public to work in a nonpublic setting and “some weight” to the psychiatric
2 consultative examiner who found Plaintiff to have no mental limitations. [AR 16-
3 17.] Although Dr. Umakanthan’s opinion was contradicted by these doctors, the
4 ALJ could not reject Dr. Umakanthan’s opinion without providing specific,
5 legitimate reasons supported by substantial evidence in the record. *See Valentine v.*
6 *Commissioner*, 574 F.3d 685, 692 (9th Cir. 2009) (“to reject the opinion of a
7 treating physician ‘in favor of a conflicting opinion of an examining physician[,]’ an
8 ALJ still must ‘make[] findings setting forth specific, legitimate reasons for doing
9 so that are based on substantial evidence in the record’”) (quoting *Thomas v.*
10 *Barnhart*, 278 F.3d 947, 957 (9th Cir. 2002)); *Lester v. Chater*, 81 F.3d 821, 830-31
11 (9th Cir. 1995). Thus, the ALJ’s mere references to the contrary findings of the
12 examining and non-examining doctors did not justify rejection of Dr. Umakanthan’s
13 opinion.

14 In response, the Commissioner suggests that the ALJ properly rejected Dr.
15 Umakanthan’s opinion because: (1) it was a “conclusion about disability” rather
16 than a “medical opinion;” (2) treatment records in April and May 2015 do not
17 support Dr. Umakanthan’s opinion; and (3) to the extent Dr. Umakanthan relied on
18 self-reports from Plaintiff those statements are not credible. [Def.’s Br. at 2-8.] The
19 ALJ, however, did not rely on these reasons to discredit Dr. Umakanthan’s opinion.

20 The ALJ’s decision cannot be affirmed based on the Commissioner’s post hoc
21 rationalizations. *See Bray v. Comm’r Soc. Sec. Admin.*, 554 F.3d 1219, 1225 (9th
22 Cir. 2009) (“Long-standing principles of administrative law require [the Court] to
23 review the ALJ’s decision based on the reasoning and actual findings offered by the
24 ALJ - not *post hoc* rationalizations that attempt to intuit what the adjudicator may
25 have been thinking.”); *Molina v. Astrue*, 674 F.3d 1104, 1121 (9th Cir. 2012) (“we
26 may not uphold an agency’s decision on a ground not actually relied on by the
27 agency”). Accordingly, the Court finds that the ALJ rejected the opinion of Dr.
28 Umakanthan without setting forth the required specific and legitimate reasons. This

1 was error, and the Court cannot say that it was harmless. Remand is warranted.

2 V.CONCLUSION

3 When the Court reverses an ALJ’s decision for error, the Court “ordinarily
4 must remand to the agency for further proceedings.” *Leon v. Berryhill*, 874 F.3d
5 1130, 1132 (9th Cir. 2017); *Benecke v. Barnhart*, 379 F.3d 587, 595 (9th Cir. 2004)
6 (“the proper course, except in rare circumstances, is to remand to the agency for
7 additional investigation or explanation”); *Treichler v. Commissioner*, 775 F.3d
8 1090, 1099 (9th Cir. 2014). But the Court does have discretion to make a direct
9 award of benefits under the “credit-as-true” rule, which asks whether: “(1) the
10 record has been fully developed and further administrative proceedings would serve
11 no useful purpose; (2) the ALJ has failed to provide legally sufficient reasons for
12 rejecting evidence, whether claimant testimony or medical opinion; and (3) if the
13 improperly discredited evidence were credited as true, the ALJ would be required to
14 find the claimant disabled on remand.” *Garrison v. Colvin*, 759 F.3d 995, 1020 (9th
15 Cir. 2014). Each part of this three-part standard must be satisfied for the Court to
16 remand for an award of benefits, *id.*, and it is only the “unusual case” that meets this
17 standard, *Benecke*, 379 F.3d at 595. *See, e.g., Treichler*, 775 F.3d at 1105 (“[A]
18 reviewing court is not required to credit claimants’ allegations regarding the extent
19 of their impairments as true merely because the ALJ made a legal error in
20 discrediting their testimony.”). Moreover, if “an evaluation of the record as a whole
21 creates serious doubt that a claimant is, in fact, disabled,” a court must remand for
22 further proceedings “even though all conditions of the credit-as-true rule are
23 satisfied.” *Garrison*, 759 F.3d at 1021; *see also Leon*, 874 F.3d at 1133 (“an award
24 under [the credit-as-true] rule is a rare exception, and the rule was intended to deter
25 ALJs from providing boilerplate rejections without analysis”); *Brown-Hunter v.*
26 *Colvin*, 806 F.3d 487, 495 (9th Cir. 2015) (as amended) (“The touchstone for an
27 award of benefits is the existence of a disability, not the agency’s legal error.”).

28 Here, questions as to the extent of Plaintiff’s impairments remain unresolved,

1 given the ALJ's insufficient consideration of Dr. Umakanthan's opinion. Further
2 proceedings would be useful to allow the ALJ to resolve conflicts in the medical
3 evidence, clarify his assessment of Dr. Umakanthan's opinion, and reevaluate
4 Plaintiff's RFC in light of the medical evidence. And despite the ALJ's failure to
5 properly explicate his evaluation of Umakanthan's opinion, the Court, after
6 reviewing the record, believes that this case raises serious doubt as to whether
7 Plaintiff is, in fact, disabled. *See Garrison*, 759 F.3d at 1021. Therefore, remand
8 for further proceedings is required. *See Treichler*, 775 F.3d at 1107; *see also*
9 *Connett v. Barnhart*, 340 F.3d 871, 876 (9th Cir. 2003).

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

- 11 (1) the decision of the Commissioner is REVERSED and this matter is
12 REMANDED for further administrative proceedings consistent with this
13 Memorandum Opinion and Order; and
14 (2) Judgment be entered in favor of Plaintiff.

15
16 **IT IS SO ORDERED.**



17
18 DATED: December 28, 2017

19 _____
20 GAIL J. STANDISH
21 UNITED STATES MAGISTRATE JUDGE

22 1. The Court notes that Nancy A. Berryhill became the Acting Commissioner of the
23 Social Security Administration on January 23, 2017. Accordingly, pursuant to Rule
24 25(d) of the Federal Rules of Civil Procedure, the Court orders that the caption be
25 amended to substitute Nancy A. Berryhill for Carolyn W. Colvin as the defendant in
26 this action.
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