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

COLUMBUS D. D.,

Plaintiff,

v.

ANDREW M. SAUL, COMMISSIONER
OF SOCIAL SECURITY
ADMINISTRATION,

Defendant.

No. ED CV 18-1773-PLA

MEMORANDUM OPINION AND ORDER

I.

PROCEEDINGS

Plaintiff¹ filed this action on August 23, 2018, seeking review of the Commissioner’s denial of his application for Disability Insurance Benefits (“DIB”). The parties filed Consents to proceed before a Magistrate Judge on September 20, 2018, and October 5, 2018. Pursuant to the Court’s Order, the parties filed a Joint Submission (alternatively “JS”) on May 13, 2019, that addresses their positions concerning the disputed issues in the case. The Court has taken the Joint

¹ In the interest of protecting plaintiff’s privacy, this Memorandum Opinion and Order uses plaintiff’s (1) first name, middle initial, and last initial, and (2) year of birth in lieu of a complete birth date. See Fed. R. Civ. P. 5.2(c)(2)(B), Local Rule 5.2-1.

1 Submission under submission without oral argument.
2

3 **II.**

4 **BACKGROUND**

5 Plaintiff was born in 1972. [Administrative Record (“AR”) at 26.] He has past relevant work
6 experience as a cook, a scout, and a gunner . [AR at 26, 58.]

7 On November 15, 2016, plaintiff protectively filed an application for a period of disability and
8 DIB, alleging that he has been unable to work since November 1, 2015. [AR at 15.] After his
9 application was denied initially and upon reconsideration, plaintiff timely filed a request for a
10 hearing before an Administrative Law Judge (“ALJ”). [AR at 15, 106.] A video hearing was held
11 on February 1, 2018, at which time plaintiff appeared represented by an attorney, and testified on
12 his own behalf. [AR at 15, 33-62.] A vocational expert (“VE”) also testified. [AR at 57-61.] On
13 April 2, 2018, the ALJ issued a decision concluding that plaintiff was not under a disability from
14 November 1, 2015, the alleged onset date, through April 2, 2018, the date of the decision. [AR
15 at 15-28.] Plaintiff requested review of the ALJ’s decision by the Appeals Council. [AR at 154-55.]
16 When the Appeals Council denied plaintiff’s request for review on July 17, 2018 [AR at 1-5], the
17 ALJ’s decision became the final decision of the Commissioner. See Sam v. Astrue, 550 F.3d 808,
18 810 (9th Cir. 2008) (per curiam) (citations omitted). This action followed.

19
20 **III.**

21 **STANDARD OF REVIEW**

22 Pursuant to 42 U.S.C. § 405(g), this Court has authority to review the Commissioner’s
23 decision to deny benefits. The decision will be disturbed only if it is not supported by substantial
24 evidence or if it is based upon the application of improper legal standards. Berry v. Astrue, 622
25 F.3d 1228, 1231 (9th Cir. 2010) (citation omitted).

26 “Substantial evidence means more than a mere scintilla but less than a preponderance; it
27 is such relevant evidence as a reasonable mind might accept as adequate to support a
28 conclusion.” Revels v. Berryhill, 874 F.3d 648, 654 (9th Cir. 2017) (citation omitted). “Where

1 evidence is susceptible to more than one rational interpretation, the ALJ's decision should be
2 upheld." Id. (internal quotation marks and citation omitted). However, the Court "must consider
3 the entire record as a whole, weighing both the evidence that supports and the evidence that
4 detracts from the Commissioner's conclusion, and may not affirm simply by isolating a specific
5 quantum of supporting evidence." Id. (quoting Garrison v. Colvin, 759 F.3d 995, 1009 (9th Cir.
6 2014) (internal quotation marks omitted)). The Court will "review only the reasons provided by the
7 ALJ in the disability determination and may not affirm the ALJ on a ground upon which he did not
8 rely." Id. (internal quotation marks and citation omitted); see also SEC v. Chenery Corp., 318 U.S.
9 80, 87, 63 S. Ct. 454, 87 L. Ed. 626 (1943) ("The grounds upon which an administrative order
10 must be judged are those upon which the record discloses that its action was based.").

11 12 IV.

13 THE EVALUATION OF DISABILITY

14 Persons are "disabled" for purposes of receiving Social Security benefits if they are unable
15 to engage in any substantial gainful activity owing to a physical or mental impairment that is
16 expected to result in death or which has lasted or is expected to last for a continuous period of at
17 least twelve months. Garcia v. Comm'r of Soc. Sec., 768 F.3d 925, 930 (9th Cir. 2014) (quoting
18 42 U.S.C. § 423(d)(1)(A)).

19 20 A. THE FIVE-STEP EVALUATION PROCESS

21 The Commissioner (or ALJ) follows a five-step sequential evaluation process in assessing
22 whether a claimant is disabled. 20 C.F.R. §§ 404.1520, 416.920; Lounsbury v. Barnhart, 468
23 F.3d 1111, 1114 (9th Cir. 2006) (citing Tackett v. Apfel, 180 F.3d 1094, 1098-99 (9th Cir. 1999)).
24 In the first step, the Commissioner must determine whether the claimant is currently engaged in
25 substantial gainful activity; if so, the claimant is not disabled and the claim is denied. Lounsbury,
26 468 F.3d at 1114. If the claimant is not currently engaged in substantial gainful activity, the
27 second step requires the Commissioner to determine whether the claimant has a "severe"
28 impairment or combination of impairments significantly limiting his ability to do basic work

1 activities; if not, a finding of nondisability is made and the claim is denied. Id. If the claimant has
2 a “severe” impairment or combination of impairments, the third step requires the Commissioner
3 to determine whether the impairment or combination of impairments meets or equals an
4 impairment in the Listing of Impairments (“Listing”) set forth at 20 C.F.R. § 404, subpart P,
5 appendix 1; if so, disability is conclusively presumed and benefits are awarded. Id. If the
6 claimant’s impairment or combination of impairments does not meet or equal an impairment in the
7 Listing, the fourth step requires the Commissioner to determine whether the claimant has sufficient
8 “residual functional capacity” to perform his past work; if so, the claimant is not disabled and the
9 claim is denied. Id. The claimant has the burden of proving that he is unable to perform past
10 relevant work. Drouin v. Sullivan, 966 F.2d 1255, 1257 (9th Cir. 1992). If the claimant meets
11 this burden, a prima facie case of disability is established. Id. The Commissioner then bears
12 the burden of establishing that the claimant is not disabled because there is other work existing
13 in “significant numbers” in the national or regional economy the claimant can do, either (1) by
14 the testimony of a VE, or (2) by reference to the Medical-Vocational Guidelines at 20 C.F.R. part
15 404, subpart P, appendix 2. Lounsbury, 468 F.3d at 1114. The determination of this issue
16 comprises the fifth and final step in the sequential analysis. 20 C.F.R. §§ 404.1520, 416.920;
17 Lester v. Chater, 81 F.3d 721, 828 n.5 (9th Cir. 1995); Drouin, 966 F.2d at 1257.

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19 **B. THE ALJ’S APPLICATION OF THE FIVE-STEP PROCESS**

20 At step one, the ALJ found that plaintiff had not engaged in substantial gainful activity since
21 November 1, 2015, the alleged onset date.² [AR at 18.] At step two, the ALJ concluded that
22 plaintiff has the severe impairments of degenerative disc disease of the lumbar spine and the
23 cervical spine; osteoarthritis; posttraumatic stress disorder (PTSD); depression; obesity;
24 obstructive sleep apnea; tibial neuritis; and degenerative joint disease of the first MTP joint of the
25 first toe on the bilateral feet. [Id.] At step three, the ALJ determined that plaintiff does not have
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28 ² The ALJ concluded that plaintiff meets the insured status requirements of the Social Security Act through December 31, 2020. [AR at 17.]

1 an impairment or a combination of impairments that meets or medically equals any of the
2 impairments in the Listing. [Id.] The ALJ further found that plaintiff retained the residual functional
3 capacity (“RFC”)³ to perform light work as defined in 20 C.F.R. § 404.1567(b),⁴ as follows:

4 [H]e can occasionally climb ramps and stairs, stoop, kneel, crouch, and crawl.
5 [Plaintiff] can frequently reach, handle, finger, and feel. He should avoid
6 concentrated exposure to extreme cold, working at heights, and working with
7 hazards. He cannot climb ladders, ropes, or scaffolds. He is restricted to simple
8 and routine tasks. He can tolerate occasional interactions with supervisors and
9 coworkers but should only work in a non-public environment with incidental (less
10 than occasional) public contact. He cannot work on a team and can maintain
11 attention and concentration for 2-hour increments with normal work breaks.
12 [Plaintiff] cannot work in a fast-paced work environment such as an assembly line
13 or fast food restaurant during mealtimes.

14 [AR at 20.] At step four, based on plaintiff’s RFC and the testimony of the VE, the ALJ concluded
15 that plaintiff is unable to perform his past relevant work as a cook, a scout, and a gunner. [AR at
16 26.] At step five, based on plaintiff’s RFC, vocational factors, and the VE’s testimony, the ALJ
17 found that there are jobs existing in significant numbers in the national economy that plaintiff can
18 perform, including work as a “cleaner” (Dictionary of Occupational Titles (“DOT”) No. 323.687-
19 014), as a “material distributor” (DOT No. 230.687-010), and as a “hand packager” (DOT No.
20 920.687-018). [AR at 27.] Accordingly, the ALJ determined that plaintiff was not disabled at any
21 time from the alleged onset date of November 1, 2015, through April 2, 2018, the date of the
22 decision. [AR at 27-28.]

23 ³ RFC is what a claimant can still do despite existing exertional and nonexertional
24 limitations. See Cooper v. Sullivan, 880 F.2d 1152, 1155 n.5 (9th Cir. 1989). “Between steps
25 three and four of the five-step evaluation, the ALJ must proceed to an intermediate step in which
26 the ALJ assesses the claimant’s residual functional capacity.” Massachi v. Astrue, 486 F.3d 1149,
27 1151 n.2 (9th Cir. 2007) (citation omitted).

28 ⁴ “Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying
of objects weighing up to 10 pounds. Even though the weight lifted may be very little, a job is in
this category when it requires a good deal of walking or standing, or when it involves sitting most
of the time with some pushing and pulling of arm or leg controls. To be considered capable of
performing a full or wide range of light work, you must have the ability to do substantially all of
these activities. If someone can do light work, we determine that he or she can also do sedentary
work, unless there are additional limiting factors such as loss of fine dexterity or inability to sit for
long periods of time.” 20 C.F.R. § 404.1567(b).

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V.

THE ALJ'S DECISION

Plaintiff contends that the ALJ erred when she: (1) determined plaintiff's RFC; and (2) rejected plaintiff's subjective symptom testimony. [JS at 4.] As set forth below, the Court agrees with plaintiff, in part, and remands for further proceedings.

A. RFC DETERMINATION

1. VA Disability Rating

Plaintiff contends that the ALJ failed to properly evaluate his 100% VA disability rating in determining his RFC. [JS at 6.] The Court agrees.

Plaintiff's treating physical provider, the Department of Veterans Affairs, Disabled American Veterans ("VA"), issued a 100% disability rating on March 17, 2016. [AR at 174-200.] The rating was premised on certain medical evidence, including the following: (1) plaintiff's Application for Disability Compensation and Related Compensation Benefits, dated September 15, 2015; (2) plaintiff's Statement in Support of Claim, received September 15, 2015; (3) plaintiff's VA examinations, received March 7, 2016; and (4) Loma Linda Veterans Affairs Medical Center treatment records, from September 23, 2014, through March 10, 2016. [AR at 176.] According to the rating decision, plaintiff suffers from PTSD, with an adjustment disorder and depressed mood, which as of September 15, 2015, was determined to be 50% disabling, an increase from the previously determined 30%. [Id.] The increased rating was based on the following: difficulty in adapting to stressful circumstances, suspiciousness, depressed mood, disturbances of motivation and mood, flattened affect, mild memory loss, a formally diagnosed mental condition, anxiety, difficulty establishing and maintaining effective work and social relationships, and chronic sleep impairment. [Id.] Plaintiff was also found to suffer from 20% disabling degenerative arthritis of the spine, 10% disabling right and left ankle sprains, and 20% disabling left shoulder impingement. [AR at 177, 178, 183.]

In her decision, the ALJ gave little weight to the disability rating, stating that, "[t]he VA uses different criteria in assessing disability, which are not transferrable to a Social Security disability

1 assessment.” [AR at 25.] The ALJ stated that, while “the VA found the [plaintiff] had a 100
2 percent disability rating as of September 2015 due to his mental and physical impairments . . .
3 evaluation of the same impairments under Social Security law does not result in a finding of
4 disability.” [AR at 25.]

5 “[A]n ALJ must ordinarily give great weight to a VA determination of disability.” McCartey
6 v. Massanari, 298 F.3d 1072, 1076 (9th Cir. 2002). This is so because of the “marked similarity
7 between [the Social Security and VA] disability programs ... [which] serve the same governmental
8 purpose -- providing benefits to those unable to work because of a serious disability.” Id.
9 Moreover, “[b]oth programs evaluate a claimant’s ability to perform full-time work in the national
10 economy on a sustained and continuing basis; both focus on analyzing a claimant’s functional
11 limitations; and both require claimants to present extensive medical documentation in support of
12 their claims.” Id. Recognizing that the two programs are not identical, however, the Ninth Circuit
13 has held that an ALJ may accord less weight to a VA disability determination, but only if the ALJ
14 “gives persuasive, specific, [and] valid reasons . . . that are supported by the record.” Id.

15 The Court finds that the ALJ failed to properly evaluate plaintiff’s 100% VA disability rating.
16 The ALJ’s sole rationale for giving little weight to this finding is that the VA uses different standards
17 and criteria for determining disability. [AR at 25.] This is not a persuasive, specific, and valid
18 reason to reject the rating, and defendant’s post hoc rationalizations of the ALJ’s improper
19 reasoning cannot remedy the error. Revels, 874 F.3d at 654. Remand is warranted on this issue.

21 2. “Stale” State Agency Opinions

22 Plaintiff contends that the ALJ erred in relying on “stale” state agency opinions to support
23 her finding that plaintiff can perform light work, and that medical evidence that was made part of
24 the record after the state agency examiners’ review undermines their opinions. [JS at 5.] The
25 ALJ gave great weight to the State Agency opinions:

26 As for opinion evidence, the State agency physical consultants’ opinions carry
27 significant weight. The DDS physical doctor [F. Kalmar, M.D.] opined that [plaintiff]
28 could lift 20 pounds occasionally and lift and/or carry 10 pounds frequently. They
thought that he could stand or walk a total of 6 hours in an 8-hour workday and sit
for a total of 6 hours. [Dr. Kalmar] thought that [plaintiff] could occasionally climb

1 ramps and stairs, ladders, ropes, and scaffolds; stoop; kneel; balance; and crawl.

2 The DDS mental consultant [] [H. Amado, M.D.] opined that [plaintiff] could learn and
3 retain at least simple and detailed instructions if clearly explained. Due to intrusive
4 mental symptoms, [plaintiff] was limited to simple instructions on a consistent basis.
5 It was noted that he was socially withdrawn but retained sufficient social and
6 communicative skills to get along with others. He was found able to adapt to routine
7 changes in the work setting over time.

8 These opinions are persuasive because the DDS doctors were privy to most of the
9 record. Further, they are specialists in evaluating impairments and have experience
10 evaluating claimants in the context determining disability. Therefore, these opinions
11 are given reasonable weight. Moreover, the opinions are generally consistent with
12 the medical evidence available at the time they reviewed the file.

13 [AR at 24 (citations omitted).]

14 Reviewing physician Dr. Kalmar prepared his physical RFC evaluation on January 5, 2017
15 [AR at 71-73]; reviewing physician Dr. Amado issued his mental RFC assessment on February
16 27, 2017. [AR at 73-75.] Dr. Amado's report notes, "[plaintiff] is 100% VA disabled but for SSA
17 purpose [plaintiff] with [history] of the above impairment [] is limited but can still perform a wide
18 range of light work." [AR at 68.] With regard to the RFC assessments, the ALJ found:

19 After carefully considering all of the evidence discussed above, the undersigned is
20 satisfied that the [RFC] statement is an accurate depiction of [plaintiff's] capabilities
21 related to work activities. His mental impairments appear to have improved with
22 therapy but still cause significant problems interacting with others. [His] back
23 impairments are reasonably well controlled with medication and physical therapy.
24 He has foregone aggressive treatment such as surgery or injections due to
25 successes with conservative measures. The evidence does not support limitations
26 that are more restrictive.

27 [AR at 25-26.]

28 Plaintiff asserts that the ALJ improperly relied on "stale" state agency opinions when
assessing the RFC because they were brief, conclusory, and do not represent a complete picture
of plaintiff's impairments. [JS at 5, 14.] In support, plaintiff points to VA records, all of which post-
date the state agency opinions, and which found the following: (1) in April 2017, plaintiff was
struggling with worsening PTSD symptoms [AR at 629]; (2) in August 2017, plaintiff presented with
symptoms consistent with anxiety, depression, and hypervigilance [AR at 768]; and (3) in
November 2017, plaintiff's mood was dysphoric, his affect was flat and he had continued sleep
disturbance. [AR at 762.] Defendant maintains that the ALJ considered this evidence along with

1 other records that *a/so* post-date the state agency opinions and show “significant improvement.”
2 [JS at 10]. Therefore, defendant argues, the ALJ properly relied on the state agency opinions
3 because Dr. Amato and Dr. Kalmar reviewed most of the available evidence and their opinions
4 are consistent with the medical evidence.⁵ [JS at 10, 12.]

5 Because the matter is being remanded for reconsideration of the VA disability rating, which
6 undoubtedly will require the ALJ’s reconsideration of the medical record as a whole, the Court will
7 not address this issue herein.

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9 **B. SUBJECTIVE SYMPTOM TESTIMONY**

10 In his applications for benefits, plaintiff alleged disability due to leg and shoulder injuries,
11 osteoarthritis, degenerative disc disease, sciatica, PTSD, adjustment disorder, and depression.
12 [AR at 217.] At the hearing, he testified that he can no longer work due to his back issues and
13 PTSD; he wears foot orthotics and uses a cane or walking stick; he has pain in both hands and
14 has difficulty holding and grabbing items; he alleged that he could stand for no longer than 15
15 minutes at a time and no longer than 2 hours in a workday; he alleged that he could lift about 10
16 to 15 pounds; and he alleged, due to his PTSD, he has trouble with concentration, memorization,
17 socializing with others, and interaction with authority figures. [AR at 21 (citing hearing testimony).]

18 The ALJ discounted plaintiff’s subjective symptom testimony because she found that it was
19 overly restrictive given the evidence of improved symptoms, conservative treatment and daily
20 activities. [AR at 21, 22, 25, 26.] With regard to plaintiff’s improved symptoms and conservative
21 treatment, the ALJ stated that plaintiff’s back pain is well controlled with medication and physical
22 therapy, and his PTSD, while causing significant problems interacting with others, has improved
23 with therapy. [AR at 25.] With regard to daily activities, the ALJ points to plaintiff’s ability to live
24 alone, read to his daughter, and visit with his girlfriend. [AR at 21.]

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27 ⁵ Defendant further argues that plaintiff has only pointed to medical notes that contradict the
28 state agency opinions regarding plaintiff’s *mental* condition, which accounts for 50% of the VA
disability rating; defendant asserts that plaintiff has, therefore, waived this issue regarding
plaintiff’s *physical* condition, which accounts for the remaining 50% of the rating. [JS at 11.]

1 Plaintiff argues that these reasons are not clear and convincing, because they are
2 insufficiently specific and cherry-pick the evidence. [JS at 15.] Defendant maintains that the ALJ
3 did not cherry-pick and, in fact, rejected opinions that plaintiff could perform *very heavy* work and
4 had only *mild* mental limitations.⁶ [JS at 18.] Defendant, therefore, argues that the ALJ properly
5 relied on evidence of record that demonstrated improvement, conservative treatment, and less
6 restrictive daily activities. [JS at 20.]

7 Because the matter is being remanded for reconsideration of the medical opinions, and the
8 ALJ on remand as a result must reconsider plaintiff's RFC in light of the record evidence, the ALJ
9 must also reconsider on remand, pursuant to SSR 16-3p,⁷ plaintiff's subjective symptom testimony
10 and, based on her reconsideration of plaintiff's RFC, provide specific, clear and convincing
11 reasons for discounting plaintiff's subjective symptom testimony if warranted. See Trevizo, 871
12 F.3d at 678 n.5; Treichler v. Comm'r of Soc. Sec. Admin., 775 F.3d 1090, 1103 (9th Cir. 2014)
13 (citation omitted) (the "ALJ must identify the testimony that was not credible, and specify 'what
14 evidence undermines the claimant's complaints.'"); Brown-Hunter v. Colvin, 806 F.3d 487, 493-94
15 (9th Cir. 2015) (the ALJ must identify the testimony he found not credible and "link that testimony
16 to the particular parts of the record" supporting his non-credibility determination).

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20 ⁶ In evaluating plaintiff's RFC, the ALJ stated that she considered but only gave some weight
21 to the opinion of Dr. To, the consulting physical examiner, who found plaintiff could lift and/or carry
22 100 pounds occasionally and 50 pounds frequently [AR at 24], and the opinion of J. Zhang, Psy.D,
23 the consulting mental examiner, who opined that plaintiff only had minor mental impairments. [AR
24 at 25.] In both instances, the ALJ found that the consulting examiners' opinions were not
supported by the evidence which, based at least in part on the "longitudinal record" and
"longitudinal evidence," supported *greater* restrictions than those put forth by Dr. To and Dr.
Zhang. [AR at 24, 25.]

25 ⁷ The Ninth Circuit in Trevizo noted that SSR 16-3p, which went into effect on March 28, 2016,
26 "makes clear what our precedent already required: that assessments of an individual's testimony
27 by an ALJ are designed to 'evaluate the intensity and persistence of symptoms after [the ALJ]
28 find[s] that the individual has a medically determinable impairment(s) that could reasonably be
expected to produce those symptoms,' and 'not to delve into wide-ranging scrutiny of the
claimant's character and apparent truthfulness.'" Trevizo, 871 F.3d at 687 n.5 (citing SSR 16-3p).
Thus, SSR 16-3p shall apply on remand.

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3 **VI.**

4 **REMAND FOR FURTHER PROCEEDINGS**

5 The Court has discretion to remand or reverse and award benefits. Trevizo v. Berryhill, 871
6 F.3d 664, 682 (9th Cir. 2017) (citation omitted). Where no useful purpose would be served by
7 further proceedings, or where the record has been fully developed, it is appropriate to exercise this
8 discretion to direct an immediate award of benefits. Id. (citing Garrison, 759 F.3d at 1019). Where
9 there are outstanding issues that must be resolved before a determination can be made, and it
10 is not clear from the record that the ALJ would be required to find plaintiff disabled if all the
11 evidence were properly evaluated, remand is appropriate. See Garrison, 759 F.3d at 1021.

12 In this case, there are outstanding issues that must be resolved before a final determination
13 can be made. In an effort to expedite these proceedings and to avoid any confusion or
14 misunderstanding as to what the Court intends, the Court will set forth the scope of the remand
15 proceedings. First, because the ALJ failed to provide specific and legitimate reasons for
16 discounting the 100% VA disability rating, the ALJ on remand shall reassess the medical opinions
17 of record, including the VA disability rating. The ALJ must explain the weight afforded to each
18 opinion and provide legally adequate reasons for any portion of an opinion, including the VA rating,
19 that the ALJ discounts or rejects. Second, the ALJ on remand, in accordance with SSR 16-3p,
20 shall reassess plaintiff's subjective allegations and either credit his testimony as true, or provide
21 specific, clear and convincing reasons, supported by substantial evidence in the case record, for
22 discounting or rejecting any testimony. Finally, the ALJ shall proceed to step five and determine,
23 with the assistance of a VE if necessary, whether there are jobs existing in significant numbers
24 in the regional and national economy that plaintiff can still perform.⁸

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⁸ Nothing herein is intended to disrupt the ALJ's step four finding that plaintiff is unable to return to his past relevant work.

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VII.

CONCLUSION

IT IS HEREBY ORDERED that: (1) plaintiff's request for remand is **granted**; (2) the decision of the Commissioner is **reversed**; and (3) this action is **remanded** to defendant for further proceedings consistent with this Memorandum Opinion.

IT IS FURTHER ORDERED that the Clerk of the Court serve copies of this Order and the Judgment herein on all parties or their counsel.

This Memorandum Opinion and Order is not intended for publication, nor is it intended to be included in or submitted to any online service such as Westlaw or Lexis.

Paul L. Abrams

DATED: August 7, 2019

PAUL L. ABRAMS
UNITED STATES MAGISTRATE JUDGE