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

ALISA J. K.,¹

Plaintiff,

v.

ANDREW M. SAUL,
Commissioner of Social Security,
Defendant.

Case No. 8:20-cv-00715-AFM

**MEMORANDUM OPINION AND
ORDER REVERSING AND
REMANDING DECISION OF
THE COMMISSIONER**

Plaintiff filed this action seeking review of the Commissioner's final decision denying her application for disability insurance benefits. In accordance with the Court's case management order, the parties have filed memorandum briefs addressing the merits of the disputed issues. The matter is now ready for decision.

BACKGROUND

In August 2016, Plaintiff applied for disability insurance benefits, alleging that she became disabled on July 22, 2015. (Administrative Record ["AR"] 173, 178.) Plaintiff's application was denied initially and on review. (AR 96-100, 102-106.) On

¹ Plaintiff's name has been partially redacted in accordance with Federal Rule of Civil Procedure 5.2(c)(2)(B) and the recommendation of the Committee on Court Administration and Case Management of the Judicial Conference of the United States.

1 February 4, 2019, a hearing took place before an Administrative Law Judge (“ALJ”).
2 Plaintiff, who was represented by counsel, and a vocational expert (“VE”) testified
3 at the hearing. (AR 29-63.)

4 In a decision dated March 12, 2019, the ALJ found that Plaintiff suffered from
5 the medically determinable impairments of trigeminal neuralgia, hyperacusis,
6 migraines, and high frequency sensorineural hearing loss. (AR 17.) However, the
7 ALJ found that none of Plaintiff’s impairments alone or in combination significantly
8 limited her ability to perform basic work-related activities and, therefore, she did not
9 have any severe impairment. (AR 17.) As a result, the ALJ found Plaintiff not
10 disabled. (AR 20.)

11 The Appeals Council subsequently denied Plaintiff’s request for review (AR
12 1-6), rendering the ALJ’s decision the final decision of the Commissioner.

13 **DISPUTED ISSUES**

- 14 1. Whether the ALJ erred in finding that Plaintiff did not suffer from a severe
15 medical impairment at Step Two of the sequential evaluation process.
- 16 2. Whether the ALJ properly rejected Plaintiff’s subjective complaints.

17 **STANDARD OF REVIEW**

18 Under 42 U.S.C. § 405(g), this Court reviews the Commissioner’s decision to
19 determine whether the Commissioner’s findings are supported by substantial
20 evidence and whether the proper legal standards were applied. *See Treichler v.*
21 *Comm’r of Soc. Sec. Admin.*, 775 F.3d 1090, 1098 (9th Cir. 2014). Under the
22 substantial-evidence standard, this Court asks whether the administrative record
23 contains sufficient evidence to support the Commissioner’s factual determinations.
24 *Biestek v. Berryhill*, 139 S. Ct. 1148, 1154 (2019). As the Supreme Court observed
25 in *Biestek*, “whatever the meaning of “substantial” in other contexts, the threshold
26 for such evidentiary sufficiency is not high.” *Id.* It means “more than a mere scintilla”
27 but less than a preponderance and is “such relevant evidence as a reasonable mind
28 might accept as adequate to support a conclusion.” *Richardson v. Perales*, 402 U.S.

1 389, 401 (1971). This Court must review the record as a whole, weighing both the
2 evidence that supports and the evidence that detracts from the Commissioner’s
3 conclusion. *Lingenfelter v. Astrue*, 504 F.3d 1028, 1035 (9th Cir. 2007). Where
4 evidence is susceptible of more than one rational interpretation, the Commissioner’s
5 decision must be upheld. *See Orn v. Astrue*, 495 F.3d 625, 630 (9th Cir. 2007).

6 DISCUSSION

7 Plaintiff contends that the ALJ erred in determining she does not have any
8 severe impairments at Step Two of the sequential evaluation process. In particular,
9 Plaintiff points to the medical evidence establishing severe impairments and argues
10 that the ALJ cherry-picked the evidence to support his decision. Plaintiff also argues
11 that the ALJ improperly rejected the opinions of every physician who examined
12 Plaintiff as well as the State agency reviewing physicians. (ECF No. 18 at 3-7.) The
13 Commissioner argues that the ALJ properly assessed the medical evidence at Step
14 Two and that Plaintiff failed to meet her burden to show that she suffered from
15 impairments that significantly limited her ability to perform basic work activities.
16 (ECF No. 19 at 5-8.)

17 A. Relevant Law

18 At Step Two of the sequential evaluation process, the claimant has the burden
19 to show that she has one or more “severe” medically determinable impairments. *See*
20 *Bowen v. Yuckert*, 482 U.S. 137, 146 n.5 (1987); *Webb v. Barnhart*, 433 F.3d 683,
21 686 (9th Cir. 2005). An impairment is “not severe if it does not significantly limit [a
22 claimant’s] physical or mental ability to do basic work activities.” 20 C.F.R.
23 § 404.1522; *see Webb*, 433 F.3d at 686. Basic work activities means “the abilities
24 and aptitudes necessary to do most jobs,” including: (1) physical functions such as
25 walking, standing, sitting, lifting, pushing, pulling, reaching, carrying or handling;
26 (2) capacities for seeing, hearing, and speaking; (3) understanding, carrying out, and
27 remembering simple instructions; (4) use of judgment; (5) responding appropriately
28 to supervision, co-workers and usual work situations; and (6) dealing with changes

1 in a routine work setting. 20 C.F.R. §§ 404.1521(b) & 416.921(b).

2 The Step-Two inquiry is “a de minimis screening device to dispose of
3 groundless claims.” *Webb*, 433 F.3d at 687 (quoting *Smolen v. Chater*, 80 F.3d 1273,
4 1290 (9th Cir. 1996)); *see also Edlund v. Massanari*, 253 F.3d 1152, 1158-1159 (9th
5 Cir. 2001) (discussing this “de minimis standard”). An impairment or combination
6 of impairments can be found not severe “only if the evidence establishes a slight
7 abnormality that has no more than a minimal effect on an individual[’]s ability to
8 work.” *Smolen*, 80 F.3d at 1290 (internal quotation marks and citation omitted).
9 Further, at Step Two, “the ALJ must consider the combined effect of all of the
10 claimant’s impairments on her ability to function, without regard to whether each
11 alone was sufficiently severe.” *Smolen*, 80 F.3d at 1290 (citation omitted). The ALJ’s
12 determination that Plaintiff did not have a medically severe impairment or
13 combination of impairments must be “clearly established by medical evidence.”
14 *Webb*, 433 F.3d at 687 (Social Security Ruling (“SSR”) 85-28).

15 B. Medical Evidence

16 Plaintiff underwent surgery to repair a retinal tear in July 2015. (AR 1247,
17 1253-1262, 1332.) Following surgery, Plaintiff developed severe photophobia and
18 headaches. (AR 1174-1176, 1244, 1317-1318, 1374, 1377, 1425, 1437, 1446-1447,
19 1453, 1721.) Before and after surgery, Plaintiff suffered from vitreous floaters. (AR
20 1261-1262.) She was diagnosed with vitreous degeneration. (AR 1323.)

21 Over the next year, Plaintiff complained of migraine headaches, dizziness, and
22 difficulties with balance. (AR 716-718, 1052, 1174-1176, 1233, 1424, 1431, 1446.)
23 She was diagnosed with severe cerebellar degeneration/dysfunction² and trigeminal
24 neuralgia.³ (AR 1475-1476.)

25 _____
26 ² “Cerebellar degeneration is a process in which neurons (nerve cells) in the cerebellum - the area
of the brain that controls coordination and balance - deteriorate and die.”
<https://www.ninds.nih.gov/disorders/All-Disorders/Cerebellar-Degeneration-Information-Page>.

27 ³ Trigeminal neuralgia is “a chronic pain condition that causes extreme, sporadic, sudden burning
28 or shock-like face pain. ... The attacks often worsen over time, with fewer and shorter pain-free

1 In October 2015, Plaintiff was diagnosed with “multiple retinal breaks of left
2 eye-New”; “vitreous degeneration of both eyes-New”; and “age-related nuclear
3 cataract of both eyes-New.” (AR 1437-1438.) Treatment notes from November 2015
4 indicate Plaintiff’s secondary trigeminal neuralgia and photophobia were
5 “progressively getting better over time.” (AR 1433-1435.)

6 Plaintiff underwent physical therapy for signs and symptoms of vestibular
7 hypofunction, affecting her gaze stability and balance. (AR 1371.)

8 In January 2016, Plaintiff appeared for a follow-up regarding secondary
9 trigeminal neuralgia and photosensitivity. She reported that her light sensitivity had
10 improved to the extent that she no longer required sunglasses at night when she is
11 driving. However, she continued to suffer migraines from looking at light and had
12 daily headaches. She also complained of vertigo. (AR 1429.) Examination was
13 essentially normal. Plaintiff’s photophobia and trigeminal pain were noted to be
14 improving. (AR 1430-1431.)

15 In February 2016, Plaintiff reported that photophobia and eye pain had
16 improved since she started vestibular therapy. She still experienced headaches, but
17 they were “not as bad.” Exposure to lights still caused headaches. Treatment notes
18 state that trigeminal neuralgia, photophobia and headache were all improving. (AR
19 1425-1428.)

20 In March 2016, Plaintiff’s physician, Brian T. Kim, M.D., recommended she
21 see a neuroophthalmologist. (RT 1313.)

22 In May 2016, Baruch Kuppermann, M.D., performed an ophthalmological
23 examination. Plaintiff again complained of severe photosensitivity, floaters, and
24 flashing lights. (AR 1416-1417.) Dr. Kupperman’s impression included secondary
25 trigeminal neuralgia-stable; photophobia of left eye-stable; headache-stable; multiple
26 defects of left retina without detachment-stable; and epiretinal membrane, left eye-

27 _____
28 periods before they recur.” <https://www.ninds.nih.gov/Disorders/All-Disorders/Trigeminal-Neuralgia-Information-Page>.

1 stable. (AR 1418-1419.) He recommended referral to an expert at UCLA because
2 Plaintiff's condition was "complex" and "unusual." (AR 1419.)

3 In June 2016, Plaintiff continued to complain of extreme photophobia.
4 Examination findings included epiretinal membrane with mild macular thickening
5 and mild lattice degeneration. (AR 1453-1455.)

6 In November 2016, Plaintiff underwent an orthopedic evaluation for
7 complaints of lower back pain. X-rays of Plaintiff's lumbar spine showed mild to
8 moderate degenerative disc disease throughout with mild facet arthropathy. X-rays
9 of Plaintiff's cervical spine showed moderate to severe degenerative disc disease at
10 C6-7, mild disc degeneration at C4-5 and C5-6, and scattered mild to moderate facet
11 arthropathy. Treatment notes indicated that Plaintiff's headaches could be
12 cervicogenic in nature. (AR 1458-1461.)

13 In January 2017, Plaintiff underwent a retinal examination by Timothy T. You,
14 M.D. Dr. You diagnosed Plaintiff with multiple retinal defects without detachment
15 OS, lattice degeneration of retina OS, posterior vitreous detachment OU, and
16 epiretinal membrane OS. (AR 1227-1228.)

17 Medical Opinions

18 In November 2018, Plaintiff's treating neurologist Joey Gee, M.D., completed
19 a functional assessment questionnaire. Dr. Gee diagnosed Plaintiff with migraines
20 and photosensitivity and stated that her symptoms included vertigo and visual
21 disturbances. He opined that she would need to take unscheduled breaks daily and
22 her condition would cause her to miss work more than four times a month. (AR
23 1201-1206.)

24 Mary Raleigh, D.O., diagnosed Plaintiff with migraines, headaches, vertigo,
25 trigeminal neuralgia, photophobia, PTSD, and visual disturbances. In Dr. Raleigh's
26 opinion, many of Plaintiff's symptoms were caused by noise and light. Dr. Raleigh
27 noted x-ray results showing spinal degeneration. In September 2018, Dr. Raleigh
28 completed functional capacity questionnaires in which she opined that Plaintiff

1 would miss work more than four times a month due to headaches. Dr. Raleigh also
2 opined that Plaintiff's back and neck issues caused limitations in sitting, standing,
3 and walking for long periods of time. (AR 1190-1195, 1196-1200.)

4 April Spurling, O.D., diagnosed Plaintiff with photophobia, vertigo, trigeminal
5 neuralgia, headaches, and visual midline shift syndrome. In November 2018,
6 Dr. Spurling opined that Plaintiff can rarely engage in near acuity and depth
7 perception, and occasionally perform far acuity, color vision, and field of vision.
8 Dr. Spurling also opined that Plaintiff had limitations, including problems working
9 with small and large objects and walking up and down stairs. (AR 1207-1210.)

10 State agency consultants reviewed Plaintiff's medical record and concluded
11 that she suffered from two severe medially determinable impairments – namely,
12 disorders of the nervous system and visual impairment. The medical consultants
13 opined that Plaintiff was limited to light work. (AR 72-94.)

14 C. The ALJ's decision

15 In finding Plaintiff's impairments were not severe, the ALJ characterized the
16 medical evidence as "benign." (AR 19.) The ALJ then briefly discussed the medical
17 evidence. While the ALJ noted Plaintiff's eye surgery, he cited a page of the record
18 in which Plaintiff reported that her symptoms were progressively getting better. He
19 also cited numerous pages showing Plaintiff's visual acuity was 20/20. (AR at 19.)
20 According to the ALJ, Plaintiff "began complaining of trigeminal neuralgia and
21 photosensitivity." However, the ALJ apparently discounted those diagnoses because
22 a brain MRI showed no abnormalities. (AR 19.) Last, the ALJ addressed the
23 diagnosis of hyperacusis possibly related to migraines, but discounted it, citing
24 routine office visits which documented "unremarkable physical examination," such
25 as normal gait, good range of motion, and normal neurological examination. (AR 19.)

26 The ALJ then briefly addressed and rejected all of the medical opinions. First,
27 the ALJ noted a letter in which Dr. Gee stated that Plaintiff was under his care and
28 she was being placed on medical disability "due to a pain disorder that is severe and

1 interferes with her normal function.” (AR 19, citing AR 1463.) The ALJ rejected
2 Dr. Gee’s opinion “since the issue of disability is reserved to the Commissioner.”
3 (AR 19.)

4 With respect to the functional limitations contained in the opinions of
5 Drs. Gee, Spurling, and Raleigh, the ALJ concluded they were entitled to little weight
6 because they were not consistent with “the treating notes as a whole.” (AR 20.)
7 Similarly, the ALJ noted that three State agency consultants had opined that Plaintiff
8 is limited to light work. He rejected these assessments finding them “not consistent
9 with unremarkable physical examination.” (AR 20.)

10 D. Analysis

11 The ALJ found that Plaintiff did not have a medically severe impairment
12 despite objective medical evidence demonstrating trigeminal neuralgia, severe
13 photophobia, migraine headaches, visual disturbances, and disc disease. In reaching
14 this conclusion, the ALJ erroneously focused exclusively on a subset of the medical
15 evidence showing that certain diagnostic tests were within normal limits and
16 Plaintiff’s intermittent reports that her symptoms had improved. The ALJ’s selective
17 recitation of the evidence fails to account for the record as a whole and instead
18 amounts to improper “cherry-picking” of the record to cite evidence supporting an
19 adverse determination. *See Ghanim v. Colvin*, 763 F.3d 1154, 1164 (9th Cir. 2014);
20 *Holohan v. Massanari*, 246 F.3d 1195, 1205 (9th Cir. 2001). Further, evidence that
21 Plaintiff’s “complex” chronic conditions were either stable or sometimes
22 “improving,” without more, does not necessarily mean that those impairments are no
23 more than a “slight abnormality,” as required to terminate the sequential evaluation
24 procedure at Step two. *See Smolen*, 80 F.3d at 1289-1290.

25 Substantial evidence does not support the ALJ’s finding that the medical
26 evidence clearly established an absence of any medically severe impairment or
27 combination of impairments. To the contrary, as set forth in above, the medical
28 evidence documenting Plaintiff’s treatment for trigeminal neuralgia, severe

1 photophobia, migraine headaches, visual disturbances, and disc disease is sufficient
2 to pass the de minimis threshold of Step Two. *See Webb*, 433 F.3d at 687-688 (the
3 record before the ALJ “includes evidence of problems sufficient to pass the
4 de minimis threshold of step two” and is distinguishable from cases in which there
5 was a “total absence of objective evidence of [a] severe impairment”); *Ortiz v.*
6 *Comm’r of Soc. Sec.*, 425 Fed. Appx. 653, 655 (9th Cir. 2011) (“This is not the total
7 absence of objective evidence of severe medical impairment that would permit us to
8 affirm a finding of no disability at step two.”); *cf. Ukolov v. Barnhart*, 420 F.3d 1002,
9 1006 (9th Cir. 2005) (claimant failed to satisfy the Step Two burden where “none of
10 the medical opinions included a finding of impairment, a diagnosis, or objective test
11 results.”).

12 Moreover, the ALJ’s conclusion is contrary to all the medical opinions,
13 including those of the State agency physicians, who found Plaintiff’s impairments to
14 be severe and opined that those impairments cause various functional limitations on
15 Plaintiff’s ability to perform work-related activity. With respect to the functional
16 limitations contained in the opinions of Drs. Gee, Spurling, and Raleigh, the ALJ
17 concluded they were entitled to little weight because they were not consistent with
18 “the treating notes as a whole.” (AR 20.) To support of this conclusion, the ALJ cites
19 a single page of the record in which Plaintiff “reported she felt well and had no
20 headaches” (AR 20, citing AR 967) and refers to evidence that “physical examination
21 was within normal [limits] as documented above.” (AR 20.) An ALJ may discredit
22 treating physician’s opinion that is unsupported by the record as a whole or by
23 objective medical findings. *See Batson v. Comm’r of Soc. Sec.*, 359 F.3d 1190, 1195
24 (9th Cir. 2004). However, simply stating that a medical opinion is inconsistent with
25 the overall evidence in the record “is not a specific reason for rejecting the opinion;
26 it is nothing more than boilerplate.” *Carmona v. Berryhill*, 2017 WL 3614425, at *4
27 (C.D. Cal. Aug. 22, 2017). Furthermore, as mentioned above, the physical
28 examinations that the ALJ “documented” consist of a selected subset of the medical

1 evidence supporting his conclusion. The same is true regarding the opinions of the
2 State agency physicians: He rejected them as not consistent with “unremarkable
3 physical examination.” (AR 20, citing AR 734, 737, 741, 807, 936-937, 983, 997,
4 1053, 1060,⁴ 1145, 1151, 1156, 1460, 1469,⁵ 1475, 1501, 1511, 1971, 2131.) Most
5 of the pages cited by the ALJ document Plaintiff’s respiratory, cardiovascular,
6 gastrointestinal, musculoskeletal, psychiatric, skin, or neurological conditions are
7 unrelated to the medical impairments upon which most physician’s opinions relied –
8 that is, Plaintiff’s retinal issues, including photophobia. (*See, e.g.*, AR 983, 997,
9 1053, 1145, 1151, 1460, 1475, 1501, 1511, 1971, 2131.) Finally, the Court notes that
10 the ALJ failed to explain how some of the evidence he relied upon is inconsistent
11 with the medical opinions, and it is not evident to the Court that it is. For example,
12 the ALJ emphasized evidence showing that Plaintiff visual acuity was 20/20. It is not
13 clear how 20/20 vision undermines functional limitations imposed based on
14 diagnoses of photophobia, migraine headaches, or trigeminal neuralgia.

15 In defending the ALJ’s determination that Plaintiff’s physical impairments
16 were non-severe, the Commissioner makes arguments and cites portions of the record
17 not relied upon by the ALJ. (ECF No. at 19 at 5-8.) The Court’s review, however, is
18 limited to the reasons the ALJ actually articulated in his decision. *See Bray v. Comm’r*
19 *of Soc. Sec. Admin.*, 554 F.3d 1219, 1225-1226 (9th Cir. 2009); *Orn*, 495 F.3d at 630;
20 *see also Connett v. Barnhart*, 340 F.3d 871, 874 (9th Cir. 2003) (“We are constrained
21 to review the reasons the ALJ asserts.”).

22 Accordingly, “[t]he ALJ should have continued the sequential analysis beyond
23 Step Two because there was not substantial evidence to show that [Plaintiff]’s claim

24 ⁴ The ALJ cites Ex. 22F/10. (AR 20.) That page (AR 1060) contains no physical examination
25 results. The physical examination findings from that office visit are found on the prior page, and
26 include (among other things), intact heel/toe walking; limited range of motion in the lumbar spine;
mild neck and trapezium pain on extension; positive Spurling’s maneuver. (AR 1059.)

27 ⁵ The ALJ cites Ex. 46F/3. (AR 20.) That page (AR 1469) consists of Plaintiff’s visual symptom
28 questionnaire where she indicates she frequently suffers from numerous visual symptoms. It is not
clear how this evidence is inconsistent with any physician’s opinion.

1 was “groundless.” *See Webb*, 433 F.3d at 687-688 (citing *Smolen*, 80 F.3d at 1290);
2 *see also Gurrola v. Colvin*, 2014 WL 4810321, at *3-4 (C.D. Cal. Sept. 25, 2014)
3 (substantial evidence did not support ALJ’s finding that plaintiff’s physical
4 impairments were not severe, singly or in combination, and ALJ’s error also tainted
5 the ALJ’s evaluation of the credibility of plaintiff’s subjective complaints at Step
6 Two).

7 Finally, the Court cannot conclude that the ALJ’s error here was harmless. *See*
8 *Stout v. Comm’r, Soc. Sec. Admin.*, 454 F.3d 1050, 1054 (9th Cir. 2006) (“We
9 recognize harmless error applies in the Social Security context.”). Because the ALJ
10 erroneously found that Plaintiff’s impairments were not severe, he did not proceed
11 beyond the de minimis threshold of Step Two and consequently failed to adequately
12 discuss those impairments later in the sequential evaluation. *Robert R. v. Berryhill*,
13 2019 WL 538994, at *4-5 (C.D. Cal. Feb. 11, 2019) (Step Two error not harmless
14 because the ALJ stopped analysis at Step Two and did not discuss impairments at
15 Step Four of the sequential evaluation); *cf. Lewis v. Astrue*, 498 F.3d 909, 911 (9th
16 Cir. 2007) (any Step Two error was harmless where “ALJ extensively discussed”
17 condition “at Step 4 of the analysis”).

18 REMEDY

19 The decision whether to remand for further proceedings or order an immediate
20 award of benefits is within the district court’s discretion. *Harman v. Apfel*, 211 F.3d
21 1172, 1175-1178 (9th Cir. 2000). “When the ALJ denies benefits and the court finds
22 error, the court ordinarily must remand to the agency for further proceedings before
23 directing an award of benefits.” *Leon v. Berryhill*, 880 F.3d 1041, 1045 (9th Cir.
24 2017). Indeed, Ninth Circuit case law “precludes a district court from remanding a
25 case for an award of benefits unless certain prerequisites are met.” *Dominguez v.*
26 *Colvin*, 808 F.3d 403, 407 (9th Cir. 2016) (citations omitted). “The district court must
27 first determine that the ALJ made a legal error, such as failing to provide legally
28 sufficient reasons for rejecting evidence. If the court finds such an error, it must next

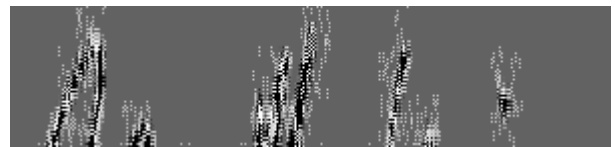
1 review the record as a whole and determine whether it is fully developed, is free from
2 conflicts and ambiguities, and all essential factual issues have been resolved.”
3 *Dominguez*, 808 F.3d at 407 (citation and internal quotation marks omitted).

4 Although the Court has found error as discussed above, the record is not fully
5 developed, and factual issues remain outstanding. The issues concerning Plaintiff’s
6 alleged disability “should be resolved through further proceedings on an open record
7 before a proper disability determination can be made by the ALJ in the first instance.”
8 *See Brown-Hunter v. Colvin*, 806 F.3d 487, 496 (9th Cir. 2015); *see also Treichler*,
9 775 F.3d at 1101 (remand for award of benefits is inappropriate where “there is
10 conflicting evidence, and not all essential factual issues have been resolved”)
11 (citation omitted); *Strauss v. Comm’r of Soc. Sec. Admin.*, 635 F.3d 1135, 1138 (9th
12 Cir. 2011) (same where the record does not clearly demonstrate the claimant is
13 disabled within the meaning of the Social Security Act). Accordingly, the appropriate
14 remedy is a remand for further administrative proceedings.⁶

15 **ORDER**

16 IT IS THEREFORE ORDERED that Judgment be entered reversing the
17 decision of the Commissioner of Social Security and remanding this matter for
18 further administrative proceedings consistent with this opinion.

19
20 DATED: 11/24/2020



21
22
23 ALEXANDER F. MacKINNON
24 UNITED STATES MAGISTRATE JUDGE

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26 _____
27 ⁶ In light of this conclusion, the Court declines to resolve Plaintiff’s remaining claims. *See Hiler v.*
28 *Astrue*, 687 F.3d 1208, 1212 (9th Cir. 2012) (“Because we remand the case to the ALJ for the
reasons stated, we decline to reach [plaintiff’s] alternative ground for remand.”). It is not the Court’s
intent to limit the scope of the remand.