

1 BENJAMIN B. WAGNER
2 United States Attorney
3 LUCILLE GONZALES MEIS
4 Regional Chief Counsel, Region IX
5 Social Security Administration
6 DANIEL P. TALBERT
7 Special Assistant United States Attorney
8 333 Market Street, Suite 1500
9 San Francisco, California 94105
10 Telephone: (415) 977-8926
11 Facsimile: (415) 744-0134
12 E-Mail: Daniel.Talbert@ssa.gov

13 Attorneys for Defendant

14 UNITED STATES DISTRICT COURT
15 EASTERN DISTRICT OF CALIFORNIA
16 FRESNO DIVISION

17 OLIVIA AYALA,) Case No. 1:09-CV-01910-JLT
18 Plaintiff,)
19 v.) STIPULATION AND PROPOSED ORDER FOR
20 MICHAEL J. ASTRUE,) REMAND PURSUANT TO SENTENCE FOUR OF
Commissioner of Social Security,) 42 U.S.C. § 405(g), AND REQUEST FOR ENTRY
Defendant.) OF JUDGMENT IN FAVOR OF PLAINTIFF AND
) AGAINST DEFENDANT

21 IT IS HEREBY STIPULATED, by and between the parties, through their respective
22 counsel of record, that this action be remanded to the Commissioner of Social Security for further
23 administrative action pursuant to section 205(g) of the Social Security Act, as amended, 42 U.S.C.
24 § 405(g), sentence four.

25 On remand, the Appeals Council will assign this case to a new administrative law judge
26 (ALJ), and will instruct the ALJ to take the following action:

27 The ALJ will be directed to offer Plaintiff a new hearing and the opportunity to present
28 new evidence. The ALJ will address consultative examiner Dr. Casner's opinion and explain the
weight that the ALJ gives to Dr. Casner's opinion. The ALJ will explain the weight that the ALJ
gives to State agency physician Dr. Bianchi's opinion; will clarify Plaintiff's mental impairment;
will reconsider Plaintiff's residual functional capacity; and will address the lay witness statements
of Monica Fernandez.

The parties stipulate that no specific aspect of the ALJ's prior decision is affirmed.

The parties further request that the Clerk of the Court be directed to enter a final judgment in favor of Plaintiff, and against Defendant, Commissioner of Social Security, reversing the final decision of the Commissioner. Nothing in this proposed order shall be taken to affect Plaintiff's right to request Equal Access to Justice Act (EAJA) attorney's fees under 28 U.S.C. § 2412, or costs under 28 U.S.C. § 1920, or to prevent Defendant from opposing any such requests.

Respectfully submitted,

Dated: March 31, 2010

s/ Laura Krank
(As authorized by email)
LAURA KRANK
Attorney for Plaintiff

Date: April 6, 2010

BENJAMIN B. WAGNER
United States Attorney

By s/ Daniel P. Talbert
DANIEL P. TALBERT
Special Assistant U. S. Attorney

Attorneys for Defendant

ORDER

The Court GRANTS the stipulation to remand and the action is REMANDED to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g). In so ordering, the COURT makes no comment upon the substantive areas outlined by the parties as the stipulated scope of the review by the Administrative Law Judge upon remand.

The Clerk is ordered to ENTER JUDGMENT IN FAVOR of Plaintiff and against Defendant.

IT IS SO ORDERED.

Dated: April 7, 2010

Dated: April 7, 2010 /s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE