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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

ALEXANDER K. LOUIS,

CASE NO. 1:10-cv-00656-SMS

Plaintiff,

ORDER DENYING DEFENDANT’S MOTION  
TO ALTER OR AMEND JUDGMENT

v.

MICHAEL ASTRUE,  
Commissioner of Social Security,

(Doc. 21)

Defendant.

\_\_\_\_\_ /

Pursuant to F.R.Civ.P. 59(e), Defendant Michael Astrue, Commissioner of Social Security moves to alter or amend this Court’s judgment reversing the Commissioner’s denial of disability benefits to Plaintiff and remanding for payment of benefits. The Commissioner contends that reconsideration is necessary to correct the Court’s manifest error (1) in making independent findings about the medical evidence and (2) in determining that the Plaintiff’s severe impairment (psychotic disorder NOS), as determined by the Commissioner, satisfied the requirements of 20 C.F.R., Pt. 404, Subpt. P, App. 1, § 12.03. The Commissioner contends that only the Administrative Law Judge, who was the fact finder in this matter, was entitled to determine whether or not Plaintiff’s impairment satisfied the listing criteria. Plaintiff disagrees. This Court agrees with Plaintiff that the Court did not err in rejecting the ALJ’s findings of fact, accepting the opinion of the agency’s examining physician, and awarding benefits to Plaintiff.

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1 **I. Motions to Alter or Amend Judgment**

2 Rule 59(e) provides only that “[a] motion to alter or amend a judgment must be filed no  
3 later than 28 days after the entry of judgment.” Among other reasons, Rule 59(e) motion may be  
4 granted if “necessary to correct manifest errors of law or fact upon which the judgment is based.”  
5 *Turner v. Burlington Northern Santa Fe Railroad Co.*, 338 F.3d 1058, 1063 (9<sup>th</sup> Cir. 2003)  
6 (*emphasis omitted*). Granting a Rule 59(e) motion is a matter of the district court’s discretion.  
7 *Id.* “[R]econsideration of a judgment after its entry is an extraordinary remedy which should be  
8 used sparingly.” *McDowell v. Calderon*, 197 F.3d 1253, 1255 n. 1 (9<sup>th</sup> Cir. 1999), *cert. denied*,  
9 529 U.S. 1082 (2000), *quoting* 11 Charles Alan Wright et al., *Federal Practice and Procedure* §  
10 2810.1 (2d ed. 1995). Neither the Court’s rejection of the Commissioner’s fact finding nor its  
11 determination that the medical evidence in the agency record satisfied the listing criteria  
12 constituted manifest error.

13 **II. Commissioner’s Fact Finding**

14 “The findings of the Commissioner of Social Security as to any fact, *if supported by*  
15 *substantial evidence*, shall be conclusive.” 42 U.S.C. § 405(g) (*emphasis added*). Substantial  
16 evidence means “more than a mere scintilla” (*Richardson v. Perales*, 402 U.S. 389, 402 (1971)),  
17 but less than a preponderance. *Sorenson v. Weinberger*, 514 F.2d 1112, 1119 n. 10 (9<sup>th</sup> Cir.  
18 1975). It is “such relevant evidence as a reasonable mind might accept as adequate to support a  
19 conclusion.” *Richardson*, 402 U.S. at 401. A reviewing court must consider the record as a  
20 whole, weighing both the evidence that supports and the evidence that detracts from the  
21 Commissioner’s decision. *Jones v. Heckler*, 760 F.2d 993, 995 (9<sup>th</sup> Cir. 1985).

22 In weighing the evidence and making findings, the Commissioner must apply the proper  
23 legal standards. *See, e.g., Burkhart v. Bowen*, 856 F.2d 1335, 1338 (9<sup>th</sup> Cir. 1988). The Court  
24 must uphold the ALJ’s determination that the claimant is not disabled if the ALJ applied the  
25 proper legal standards, and if the ALJ’s findings are supported by substantial evidence. *See*  
26 *Tommasetti v. Astrue*, 533 F.3d 1035, 1041 (9<sup>th</sup> Cir. 2008); *Sanchez v. Secretary of Health and*  
27 *Human Services*, 812 F.2d 509, 510 (9<sup>th</sup> Cir. 1987).

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1 As the Commissioner contends, the trier of fact is the final arbiter of conflicting or  
2 ambiguous evidence: this is only true, however, if the evidence can support either outcome.  
3 *Tommasetti*, 533 F.3d at 1041-42; *Matney v. Sullivan*, 981 F.2d 1016, 1019 (9<sup>th</sup> Cir. 1992). Here,  
4 substantial evidence did not support the ALJ's determination. "Where the Commissioner fails to  
5 provide adequate reasons for rejecting the opinion of a treating or examining physician, we credit  
6 that opinion 'as a matter of law.'" *Lester v. Chater*, 81 F.3d 821, 834 (9<sup>th</sup> Cir. 1995), quoting  
7 *Hammock v. Bowen*, 879 F.2d 498, 502 (9<sup>th</sup> Cir. 1989). When the Commissioner improperly  
8 rejects the claimant's representations of his limitations and the claimant would be disabled if the  
9 claimant's representations were credited, a court does not remand solely to allow the ALJ to  
10 make specific findings. *Varney v. Secretary of Health and Human Services*, 859 F.2d 1396, 1401  
11 (9<sup>th</sup> Cir. 1988).

### 12 **III. Assessment of Listing Criteria**

13 When a claimant seeks timely review of the decision of the Commissioner, "[t]he court  
14 shall have the power to enter, upon the pleadings and transcript of the record, a judgment  
15 affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or  
16 without remanding the cause for a rehearing." 42 U.S.C. § 405(g). The decision whether to  
17 remand to the Commissioner to award benefits is a matter of the Court's discretion. *McAllister*  
18 *v. Sullivan*, 888 F.2d 599, 603 (9<sup>th</sup> Cir. 1989). "If additional proceedings can remedy defects in  
19 the original administrative proceedings, a social security case should be remanded. Where,  
20 however, a rehearing would simply delay receipt of benefits, reversal and an award of benefits is  
21 appropriate." *Id.* Where, as is the case here, the record is fully developed and further  
22 administrative proceedings will serve no useful purpose, a reviewing court should simply reverse  
23 and award benefits. *Varney*, 859 F.2d at 1399.

24 When a court determines that an ALJ erred in rejecting cognizable evidence, it may  
25 properly give that evidence the effect required by federal regulations. *Schneider v.*  
26 *Commissioner of Social Security Admin.*, 223 F.3d 968, 976 (9<sup>th</sup> Cir. 2000). If the Court's  
27 analysis makes clear that the claimant's functional limitations meet or equal a listing, it may  
28 reverse and remand for payment of benefits. *Id.* When the claimant's mental or physical

1 impairments clearly satisfy a listing, “[n]o purpose would be served by remanding for further  
2 proceedings.” *Lester*, 81 F.3d at 834. A court may remand for payment of benefits when “(1)  
3 the ALJ has failed to give legally sufficient reason for rejecting such evidence; (2) there are no  
4 outstanding issues that must be resolve before a determination of disability can be made; and (3)  
5 it is clear from the record that the ALJ would be required to find the claimant disabled were such  
6 evidence credited.” *Smolen v. Chater*, 80 F.3d 1273, 1292 (9<sup>th</sup> Cir. 1996). *See also Ramirez v.*  
7 *Shalala*, 8 F.3d 1449, 1455 (9<sup>th</sup> Cir. 1993) (“Where the record is complete . . . we award benefits  
8 to the claimant.”); *Rodriguez v. Bowen*, 876 F.2d 759,763 (9<sup>th</sup> Cir. 1989) (“[W]e generally award  
9 benefits when no useful purpose would be served by further administrative proceedings.”);  
10 *Swenson v. Sullivan*, 876 F.2d 683, 689 (9<sup>th</sup> Cir. 1989) (“We may direct the award of benefits  
11 where no useful purpose would be served by further administrative proceedings and the record  
12 has been thoroughly developed.”); *Winans v. Bowen*, 853 F.2d 643, 647 (9<sup>th</sup> Cir. 1988) (where  
13 the court rejected the ALJ’s findings rejecting the opinion of a treating physician, it was free to  
14 accept the physician’s opinion and order payment of benefits without the necessity of remand).

15 **IV. Conclusion and Order**

16 This Court did not err in reversing the ALJ’s unsupported findings and remanding for  
17 payment of benefits. The Commissioner’s motion to alter or amend the judgment in this action is  
18 HEREBY DENIED.

19  
20 IT IS SO ORDERED.

21 **Dated: September 11, 2011**

/s/ Sandra M. Snyder  
UNITED STATES MAGISTRATE JUDGE