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8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
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11 SCOTT BUTLER,

12 Plaintiff,

13 v.

14 COMMISSIONER OF SOCIAL  
15 SECURITY,

16 Defendant.

**Case No. 1:15-cv-00133-EPG**

**FINAL JUDGMENT AND ORDER  
REGARDING PLAINTIFF'S SOCIAL  
SECURITY COMPLAINT**

17 This matter is before the Court on Plaintiff's complaint for judicial review of an  
18 unfavorable decision of the Commissioner of the Social Security Administration regarding his  
19 application for disability insurance benefits. The parties have consented to entry of final judgment  
20 by the United States Magistrate Judge under the provisions of 28 U.S.C. § 636(c) with any appeal  
21 to the Court of Appeals for the Ninth Circuit. (ECF Nos. 6, 11.)

22 At the hearing on March 28, 2017, the Court heard from the parties. Having reviewed the  
23 cord, administrative transcript, the briefs of the parties, and the applicable law, the Court finds as  
24 follows:

25 For the reasons announced by the Court on the record at the conclusion of the parties' oral  
26 argument on March 28, 2017, the Court finds that the decision of the Commissioner of Social  
27 Security should be reversed and the case should be remanded for further proceedings.  
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1 In reaching Plaintiff's residual functional capacity finding, the Administrative Law Judge  
2 ("ALJ") gave great weight to the medical opinions of examining psychologists Dr. Cushman and  
3 Dr. Spivey. The ALJ indicated that, by including a single limitation for "work involving no  
4 production rate or pace work" in Plaintiff's residual functional capacity finding, he had "fully  
5 credited the claimant with his complaint of problems with concentration and focus, and Dr.  
6 Cushman and Dr. Spivey finding that the claimant may have problems dealing with stress and  
7 emotional capacity." However, the ALJ did not fully discuss the reason(s) for not accepting  
8 several limitations suggested by Dr. Cushman, who determined that Plaintiff had limitations  
9 including: 1) difficulty maintaining regular attendance, 2) difficulty working a normal workday or  
10 workweek, 3) difficulty getting along with supervisors, coworkers and the public, and 4)  
11 difficulty dealing with the usual stressors encountered in a competitive work environment. (AR  
12 325.) The ALJ also did not fully discuss the reason(s) for not accepting the limitations suggested  
13 by Dr. Spivey, who determined that Plaintiff had limitations including: 1) moderate limitation in  
14 ability to withstand the stress of a routine workday, and 2) marked limitation in ability to  
15 withstand emotional stability/predictability. (AR 437.) The ALJ's failure to fully consider the  
16 limitations found Dr. Cushman and Dr. Spivey constitutes legal error.

17 On remand, the Administrative Law Judge shall examine the record with respect to the  
18 above medical sources and determine whether they should be incorporated in the residual  
19 functional capacity finding. If they should not be incorporated, the Administrative Law Judge  
20 should explain why. Alternatively, the Administrative Law Judge may incorporate their findings  
21 and continue the analysis using the five step process.

22 The Court finds for the Commissioner regarding other of Plaintiff's arguments, as  
23 discussed on the record.

24 Accordingly, the Court GRANTS Plaintiff's appeal from the administrative decision of  
25 the Commissioner of Social Security and the case is remanded to the Social Security  
26 Administration.

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1 The Clerk of the Court is DIRECTED to enter judgment in favor of Plaintiff Scott Butler  
2 and against Defendant Nancy A. Berryhill, Acting Commissioner of Social Security.

3 IT IS SO ORDERED.  
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5 Dated: March 28, 2017

/s/ Eric P. Grig  
UNITED STATES MAGISTRATE JUDGE