



1 defined by the Social Security Act, and issued an order denying benefits on December 21, 2015. (*Id.* at  
2 22-32) Plaintiff requested review of the ALJ’s decision by the Appeals Council, which denied the  
3 request on February 24, 2017. (*Id.* at 2-4) Therefore, the ALJ’s determination became the final  
4 decision of the Commissioner of Social Security (“Commissioner”).

### 5 **STANDARD OF REVIEW**

6 District courts have a limited scope of judicial review for disability claims after a decision by  
7 the Commissioner to deny benefits under the Social Security Act. When reviewing findings of fact,  
8 such as whether a claimant was disabled, the Court must determine whether the Commissioner’s  
9 decision is supported by substantial evidence or is based on legal error. 42 U.S.C. § 405(g). The ALJ’s  
10 determination that the claimant is not disabled must be upheld by the Court if the proper legal standards  
11 were applied and the findings are supported by substantial evidence. *See Sanchez v. Sec’y of Health &*  
12 *Human Serv.*, 812 F.2d 509, 510 (9th Cir. 1987).

13 Substantial evidence is “more than a mere scintilla. It means such relevant evidence as a  
14 reasonable mind might accept as adequate to support a conclusion.” *Richardson v. Perales*, 402 U.S.  
15 389, 401 (1971) (quoting *Consol. Edison Co. v. NLRB*, 305 U.S. 197 (1938)). The record as a whole  
16 must be considered, because “[t]he court must consider both evidence that supports and evidence that  
17 detracts from the ALJ’s conclusion.” *Jones v. Heckler*, 760 F.2d 993, 995 (9th Cir. 1985).

### 18 **DISABILITY BENEFITS**

19 To qualify for benefits under the Social Security Act, Plaintiff must establish he is unable to  
20 engage in substantial gainful activity due to a medically determinable physical or mental impairment  
21 that has lasted or can be expected to last for a continuous period of not less than 12 months. 42 U.S.C.  
22 § 1382c(a)(3)(A). An individual shall be considered to have a disability only if:

23 his physical or mental impairment or impairments are of such severity that he is not  
24 only unable to do his previous work, but cannot, considering his age, education, and  
25 work experience, engage in any other kind of substantial gainful work which exists in  
26 the national economy, regardless of whether such work exists in the immediate area  
in which he lives, or whether a specific job vacancy exists for him, or whether he  
would be hired if he applied for work.

27 42 U.S.C. § 1382c(a)(3)(B). The burden of proof is on a claimant to establish disability. *Terry v.*  
28 *Sullivan*, 903 F.2d 1273, 1275 (9th Cir. 1990). If a claimant establishes a prima facie case of disability,

1 the burden shifts to the Commissioner to prove the claimant is able to engage in other substantial  
2 gainful employment. *Maounois v. Heckler*, 738 F.2d 1032, 1034 (9th Cir. 1984).

### 3 ADMINISTRATIVE DETERMINATION

4 To achieve uniform decisions, the Commissioner established a sequential five-step process for  
5 evaluating a claimant’s alleged disability. 20 C.F.R. §§ 404.1520, 416.920(a)-(f). The process requires  
6 the ALJ to determine whether Plaintiff (1) engaged in substantial gainful activity during the period of  
7 alleged disability, (2) had medically determinable severe impairments (3) that met or equaled one of the  
8 listed impairments set forth in 20 C.F.R. § 404, Subpart P, Appendix 1; and whether Plaintiff (4) had  
9 the residual functional capacity (“RFC”) to perform to past relevant work or (5) the ability to perform  
10 other work existing in significant numbers at the state and national level. *Id.* The ALJ must consider  
11 testimonial and objective medical evidence. 20 C.F.R. §§ 404.1527, 416.927.

#### 12 **A. Relevant Medical Evidence<sup>1</sup>**

13 On July 24, 2013, Plaintiff underwent x-rays of her lumbar spine and right knee. (Doc. 10-10 at  
14 46-47) Dr. Mark Williams found “[n]o lumbar spine fracture or other acute changes.” (*Id.* at 46) He  
15 determined Plaintiff had “[t]ransitional changes... with moderate narrowing of the L5-S1 disc.” (*Id.*)  
16 In addition, Dr. Williams found Plaintiff had “[m]ild diffuse spurring ...consistent with spondylosis”  
17 and Grade I anterolisthesis at the L4-L5 levels. (*Id.*) Dr. Williams concluded Plaintiff did not have any  
18 “abnormal knee finding.” (*Id.* at 47)

19 Dr. Emanuel Dozier performed a consultative physical examination on March 24, 2014. (Doc.  
20 10-9 at 4) Dr. Dozier noted that his review of records included Plaintiff’s “statement of illness” and “a  
21 copy of a previous psychiatric evaluation.” (*Id.*) Plaintiff’s physical complaints included “a 10-year  
22 history of rheumatoid arthritis with a high ANA;” hepatitis C, which was diagnosed in 2002; and  
23 hypothyroidism. (*Id.*) Plaintiff stated her joints affected by rheumatoid arthritis included her “hands,  
24 wrists, shoulders, neck, back, knees, ankles, and feet.” (*Id.*) She described her pain as “8/10... in her  
25 joints,” but did not take medication for relief. (*Id.*) Dr. Dozier observed Plaintiff walking in a hall, and  
26 noted she walked with a normal gait, without signs of pain. (*Id.* at 5) In addition, Plaintiff was “able to

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28 <sup>1</sup> The Court’s analysis below focuses upon Plaintiff’s physical residual functional capacity. Thus, while the Court has reviewed the entirety of the record, this summary of the medical evidence focuses upon the objective evidence and clinical findings related to Plaintiff’s physical impairments.

1 transfer on and off the examination table without assistance.” (*Id.*) Plaintiff’s straight leg raising tests  
2 were “negative in the seated and supine positions.” (*Id.* at 6) Dr. Dozier found Plaintiff’s grip strength  
3 and motor strength was “5/5,” bilaterally, and her light touch and pinprick senses were intact. (*Id.* at 7)  
4 Dr. Dozier concluded Plaintiff’s walking, standing, and sitting abilities were “unlimited in an eight  
5 hour-day.” (*Id.*) Dr. Dozier also found Plaintiff did not have any postural, manipulative, or  
6 environmental limitations. (*Id.* at 8)

7 On April 15, 2014, Dr. Kuge completed a case analysis and noted Plaintiff had “multiple  
8 physical allegations” including rheumatoid arthritis, hepatitis C, and hypothyroidism. (Doc. 10-4 at 26)  
9 Dr. Kuge noted Plaintiff’s consultative examination results “indicate[d] no abnormalities of her joints,  
10 liver, or thyroid.” (*Id.*) In addition, Dr. Kuge noted Plaintiff’s exam results “reveal[ed] normal gait,  
11 strength, coordination, sensation and [range of motions] of [the] spine and extremities.” (*Id.*) Dr. Kuge  
12 concluded Plaintiff’s physical impairments were “non-severe.” (*Id.*)

13 Dr. Roy Brown reviewed the medical record as part of the reconsideration of Plaintiff’s  
14 applications for benefits on July 24, 2014. (Doc. 10-4 at 42) Dr. Brown opined the evidence showed  
15 Plaintiff had “mental health issues” and her “physical exam [was] normal as ... in the initial  
16 assessment.” (*Id.*) Dr. Brown opined Plaintiff was “physically non severe.” (*Id.*)

17 Dr. Carmen Fischer performed a consultative examination at the Pain Institute of Central  
18 California on May 8, 2015. (Doc. 10-12 at 73) Plaintiff “report[ed] that she had pain everywhere,”  
19 including her “shoulders, knees and joints in her hands and also low back.” (*Id.*) She described her  
20 pain as a “7/10,” and as “stabbing, dull aching pins and needles.” (*Id.*) Dr. Fischer determined Plaintiff  
21 had “decreased range of motion with respect to flexion and extension” in the lumbar spine.” (*Id.*)  
22 Plaintiff’s muscle strength was “5/5” in her leg muscles, and her range of motion was normal in both  
23 legs. (*Id.* at 73-74) Dr. Fischer opined Plaintiff’s pinprick perception and light touch perception were  
24 “50% of normal.” (*Id.* at 73) In addition, she found Plaintiff had positive straight leg raise tests and  
25 sciatic tenderness bilaterally. (*Id.* at 74) Dr. Fischer ordered an MRI of Plaintiff’s lumbar spine and  
26 prescribed fentanyl patches for pain. (*Id.*)

27 Plaintiff had a follow-up with Dr. Fischer in August 2015. (Doc. 10-12 at 66) Dr. Fisher found  
28 Plaintiff had decreased range of motion in her lumbar spine and “50% of normal” pinprick and light

1 touch perceptions. (*Id.*) Plaintiff again had positive straight leg raise tests bilaterally and sciatic  
2 tenderness. (*Id.*) Dr. Fischer prescribed more fentanyl patches, and indicated she would see Plaintiff  
3 again after the MRI was performed. (*Id.* at 67)

4 Plaintiff had the MRI on her lumbar spine due to her complaints of “chronic pain and  
5 radiculopathy” on September 18, 2015. (Doc. 10-12 at 61) Dr. Manjul Shah determined Plaintiff had  
6 bulging discs and facet hypertrophy at the L2-3, L3-4, L4-5, and L5-S1 levels. (*Id.*) Dr. Shah opined  
7 Plaintiff had “[d]egenerative changes most marked at L4-5, at which level there [was] moderate canal  
8 and bilateral foraminal stenosis.” (*Id.*) Dr. Shah found Plaintiff had “mild-to-moderate canal and  
9 bilateral foraminal stenosis at L5-S1,” and “mild canal and mild-to-moderate bilateral foraminal  
10 stenosis at L2-3 and L3-4.” (*Id.* at 62) According to Dr. Shah, the MRI was “otherwise negative,” with  
11 no “herniation, canal, or foraminal stenosis” at the T12-L2 and L1-L2 levels. (*Id.*)

12 Dr. Fischer conducted a follow-up examination on October 7, 2015. (Doc. 10-12 at 64) Dr.  
13 Fischer observed that Plaintiff’s gait was normal. (*Id.*) She again determined Plaintiff had a  
14 “decreased range of motion with respect to flexion and extension” in the lumbar spine. (*Id.*) Dr.  
15 Fischer also found Plaintiff’s pinprick perception and light touch perception were “50% of normal.”  
16 (*Id.*) Plaintiff had positive straight leg raise tests bilaterally, as well as “[s]ciatic notch tenderness”  
17 bilaterally. (*Id.*) Dr. Fischer noted Plaintiff would be scheduled for an epidural injection. (*Id.* at 65)

18 **B. Administrative Hearing Testimony**

19 Plaintiff testified that she stopped working in 2013 because she “was really depressed” and  
20 “wasn’t able to make it to work all the time.” (Doc. 10-3 at 42) She explained that she had “really  
21 bad anxiety attacks, because [she] worked with a lot of people.” (*Id.*) Plaintiff said since that time, her  
22 impairments became “more physical,” including back pain, hepatitis C, arthritis, and fibromyalgia.  
23 (*Id.* at 42-43, 45)

24 Plaintiff stated that on an average day, the pain in her back was “about a seven to an eight” out  
25 of ten. (Doc. 10-3 at 43) She said the pain radiated down her legs, mostly into the right leg. (*Id.* at  
26 43-44) Plaintiff reported she also had numbness and tingling in both feet. (*Id.* at 44) She stated that  
27 she received an injection for her back pain and a fentanyl patch, which reduced her pain to “[m]aybe a  
28 five” out of ten. (*Id.*)

1 She estimated that she could sit for about two hours at one time and explained she did not “feel  
2 comfortable sitting... all the time.” (Doc. 10-3 at 52-53) Plaintiff believed she could stand for “[l]ess  
3 than 30 minutes” at one time before she had to sit, and stand a total of two hours in a day. (*Id.* at 53)  
4 She stated that she could lift and carry “[l]ess than ten pounds” comfortably, explaining she also had  
5 trouble with the joints in her hands hurting. (*Id.* at 54)

6 **C. The ALJ’s Findings**

7 Pursuant to the five-step process, the ALJ first determined Plaintiff engaged in substantial  
8 gainful activity from January 2014 to April 2014, but there was “a continuous 12-month period[] during  
9 which the claimant did not engage in substantial gainful activity.” (Doc. 10-3 at 24-25) Therefore, the  
10 ALJ indicated that her remaining findings would “address the period[] the claimant did not engage in  
11 substantial gainful activity,” beginning in mid-April 2014. (*Id.* at 25)

12 At step two, the ALJ found Plaintiff’s severe impairments included: Hepatitis C, lumbar  
13 spondylosis, obesity, and affective disorder. (Doc. 10-3 at 25) The ALJ noted Plaintiff also reported  
14 that she had asthma, rheumatoid arthritis and fibromyalgia. (*Id.*) However, the ALJ found Plaintiff’s  
15 “asthma [was] being managed medically, and should be amenable to proper control by adherence to  
16 recommended medical management and medication compliance.” (*Id.*) Thus, she opined Plaintiff’s  
17 asthma was not severe. (*Id.*) In addition, the ALJ found Plaintiff’s reported rheumatoid arthritis and  
18 fibromyalgia were not supported by “clinical or objective medical evidence,” and as a result they were  
19 not “medically determinable impairments” under the Regulations. (*Id.*)

20 At step three, the ALJ determined that Plaintiff did not have an impairment, or combination of  
21 impairments, that met or medically equaled a Listing. (Doc. 10-3 at 25-26) Next, the ALJ found:

22 [T]he claimant has the residual functional capacity to perform light work as defined in  
23 20 CFR 404.1567(b) and 416.967(b) except lift and/or carry 20 pounds occasionally  
24 and 10 pounds frequently; stand and/or walk up to six hours of an eight-hour workday;  
25 sit up to eight hours of an eight-hour workday; could occasionally climb, balance,  
26 stoop, kneel, crouch, and crawl; no climbing ladders, ropes or scaffolds; could perform  
simple repetitive tasks with occasional interaction with the public, supervisors, and co-  
workers; [and] can maintain concentration, persistence and pace for two hours at a time  
with a 10 minute break after two hours of working.

27 (*Id.* at 26) With this residual functional capacity, the ALJ opined at step four that Plaintiff was “unable  
28 to perform any past relevant work.” (*Id.* at 31) However, the ALJ determined there were “jobs that

1 exist in significant numbers in the national economy that the claimant can perform.” (*Id.*) Therefore,  
2 the ALJ concluded Plaintiff was not disabled as defined by the Social Security Act. (*Id.* at 32)

### 3 DISCUSSION AND ANALYSIS

4 Plaintiff contends the ALJ erred in determining her residual functional capacity because the  
5 ALJ’s findings are “unsupported by substantial evidence because the ALJ rejected all of the opinion  
6 evidence from acceptable medical sources and used her own lay interpretation of the raw medical  
7 evidence when formulating the RFC.” (Doc. 14 at 10, emphasis omitted) On the other hand,  
8 Defendant argues that “the ALJ properly based her RFC finding on the record.” (Doc. 18 at 9)

#### 9 **A. The Residual Functional Capacity**

10 A claimant’s residual functional capacity is “the most [a claimant] can still do despite [her]  
11 limitations.” 20 C.F.R. §§ 404.1545(a), 416.945(a); *see also* 20 C.F.R. Part 404, Subpart P, Appendix  
12 2, § 200.00(c) (defining an RFC as the “maximum degree to which the individual retains the capacity  
13 for sustained performance of the physical-mental requirements of jobs”). In formulating a RFC, the  
14 ALJ weighs medical and other source opinions, as well as the claimant’s credibility. *See, e.g., Bray v.*  
15 *Comm’r of Soc. Sec. Admin.*, 554 F.3d 1219, 1226 (9th Cir. 2009). Further, the ALJ must consider “all  
16 of [a claimant’s] medically determinable impairments”—whether severe or not—when assessing a  
17 RFC. 20 C.F.R. §§ 405.1545(a)(2), 416.945(a)(2).

18 The ALJ explained the weight given to the opinions of Drs. Dozier and Brown as follows:

19 Consulting examiner, Dr. Dozier opined that she is able to walk, stand and sit with no  
20 limitations in an eight-hour day. He found the claimant did not have any limitations in  
21 her ability to lift/carry, or perform postural, manipulative, and environmental activities  
22 (Exhibit 1F). State agency medical consultant Roy Brown, MD opined that the  
23 claimant’s physical impairments were not severe (Exhibit 6A). The assessments of  
24 consultative examiner Dr. Dozier and Dr. Brown are given little weight because the  
25 limitations the undersigned developed for the claimant’s residual functional capacity  
26 are more consistent with the claimant’s limitations as expressed in her testimony and  
27 the record as a whole.

24 (Doc. 10-3 at 30) Plaintiff contends the ALJ erred in assessing the RFC in this matter. (Doc. 14 at 11)  
25 She argues the ALJ erred in limiting Plaintiff to light work with postural limitations “without the aid of  
26 any medical opinion whatsoever,” particularly in light of the objective findings and MRI results, which  
27 were obtained after Drs. Dozier and Brown gave their opinions. (*See id.* at 11-12)

1 Defendant argues that Plaintiff’s argument “is a misrepresentation of the law,” because the  
2 “RFC is not a medical finding but an administrative finding left to the Commissioner.” (Doc. 18 at 8-9,  
3 citing 20 C.F.R. § 404.1527(e)(2) (emphasis omitted). Defendant observes that the Ninth Circuit  
4 determined “it is the responsibility of the ALJ, not the claimant’s physician, to determine residual  
5 functional capacity.” (*Id.* at 8, quoting *Vertigan v. Halter*, 260 F.3d 1044, 1049 (9th Cir. 2001)) Thus,  
6 Defendant asserts the ALJ did not “play[] doctor,” as Plaintiff asserts, but rather the ALJ did “exactly  
7 what the rules tell her to do – assess RFC from her analysis of the record as a whole.” (*Id.*) According  
8 to Defendant, “the ALJ came to the very reasonable conclusion that Plaintiff was not unlimited  
9 physically, but limited to light work.” (*Id.* at 9)

10 Notably, the consultative examination by Dr. Dozier on March 24, 2014 occurred prior to the  
11 relevant time period—which began the following month (*see* Doc. 10-9 at 24-25)—and the results from  
12 this examination were identified as support for the conclusions offered by Drs. Kuge and Brown that  
13 Plaintiff’s physical impairments were “non-severe.” (Doc. 10-4 at 26, 42) None of the physicians who  
14 offered opinions indicated that they reviewed the results of Plaintiff’s lumbar spine x-rays from July  
15 2013. In addition, they did not have the opportunity to review the objective findings from the  
16 examinations by Dr. Fischer or the MRI results from September 2015. Dr. Fischer repeatedly found  
17 Plaintiff had positive straight leg raise tests in 2015, though Plaintiff’s tests were negative in 2014  
18 when examined by Dr. Dozier. (*Compare* Doc. 10-9 at 5 *with* Doc. 10-12 at 64, 66, 74) Likewise,  
19 though Dr. Dozier determined Plaintiff’s light touch and pinprick senses were intact in 2014, Dr.  
20 Fischer found Plaintiff was at “50% of normal” in 2015. (*Compare* Doc. 10-9 at 7 *with* Doc. 10-12 at  
21 64, 66, 73) Further, Dr. Fischer found Plaintiff had a decreased range of motion in her lumbar spine  
22 with flexion and extension. (Doc. 10-12 at 64, 73) Evidently, the ALJ reviewed these findings and  
23 concluded Plaintiff could perform light work with postural limitations.

24 Because no physician reviewed the MRI results or the clinical findings of Dr. Fischer from the  
25 examinations in 2015, the ALJ clearly rendered her own medical findings that Plaintiff could perform  
26 light work with postural limitations. However, it is well-settled law that an ALJ may not render her  
27 own medical opinion and is not empowered to independently assess clinical findings. *See, e.g., Tackett*  
28 *v. Apfel*, 180 F.3d 1094, 1102-03 (9th Cir. 1999) (holding an ALJ erred in rejecting physicians’



1 opinions and rendering his own medical opinion); *Banks v. Barnhart*, 434 F. Supp. 2d 800, 805 (C.D.  
2 Cal. 2006) (“An ALJ cannot arbitrarily substitute his own judgment for competent medical opinion, and  
3 he must not succumb to the temptation to play doctor and make his own independent medical  
4 findings”); *Nguyen v. Chater*, 172 F.3d 31, 35 (1st Cir. 1999) (as a lay person, the ALJ is “simply not  
5 qualified to interpret raw medical data in functional terms”). “When an ALJ rejects all medical  
6 opinions in favor of his own, a finding that the RFC is supported by substantial evidence is less likely.”  
7 *See Stairs v. Astrue*, 2011 WL 318330, at \*12 (E.D. Cal. Feb.1, 2011). For example, this Court  
8 determined an ALJ erred where all medical opinions were rejected before the ALJ formulated the RFC.  
9 *See Perez v. Comm’r of Soc. Sec.*, 2018 WL 721399 (E.D. Cal. Feb. 6, 2018).

10 In *Perez*, a physician concluded after a consultative examination that the claimant “had no  
11 functional restrictions” and two non-examining physicians opined the claimant “had no severe physical  
12 impairments. *Id.*, 2018 WL 721399 at \*6. The ALJ “gave no weight” to these opinions, finding the  
13 record indicated the claimant had some limitations. *Id.* “After rejecting all the doctor’s opinions, the  
14 ALJ concluded that Plaintiff would be capable of a reduced range of light work with postural  
15 manipulative and environmental restrictions.” *Id.* The Court found the ALJ erred, explaining:

16 A claimant’s residual functional capacity is not a medical opinion, but is an issue to be  
17 decided by the ALJ. 20 C.F.R. §§ 404.1527(d)(2), 416.920(d)(2). However, the  
18 finding must be supported by substantial evidence in the record and the ALJ must  
19 explain his reasoning behind the RFC. 42 U.S.C. § 405(b); 20 C.F.R. §§ 404.1520c,  
20 416.920c.

21 Here, the ALJ stated that the RFC was supported by the weight of the objective  
22 evidence and Plaintiff’s less than credible testimony. But the Court is unable to  
23 determine how the ALJ arrived at the conclusion that Plaintiff was capable of light  
24 work. Absent adequate explanation of the record, without specific support from a  
25 medical source, and with no testimony from a medical expert, the ALJ appears to have  
26 defined his own limitations for Plaintiff. The Court finds that this was error. *See Day  
27 v. Weinberger*, 522 F.2d 1154, 1156 (9th Cir. 1975) (the ALJ was not qualified as a  
28 medical expert and therefore could not permissibly go outside the record to consult  
29 medical textbooks for purpose of making his own assessment of the claimant’s  
30 physical condition); *Nguyen v. Chater*, 172 F.3d 31, 35 (1st Cir. 1999) (“As a lay  
31 person,... the ALJ was simply not qualified to interpret raw medical data in functional  
32 terms and no medical opinion supported the determination.”); *Rohan v. Chater*, 98  
33 F.3d 966, 970 (7th Cir. 1996) (“ALJs must not succumb to the temptation to play  
34 doctor and make their own independent medical findings.”).

35 *Id.*, 2018 WL 721399 at \*7-8. Without the support of a physician’s opinion, the Court concluded the  
36 RFC lacked the support of substantial evidence. *Id.* at \*8.

1 Here, the ALJ indicated she gave “little weight” to the opinions of the consultative examiner  
2 and non-examining physician, finding instead the limitations she assessed in the RFC were “more  
3 consistent with the claimant’s limitations as expressed in her testimony and the record as a whole.”  
4 (Doc. 10-3 at 30) However, the Court is unable to determine why the ALJ believed a restriction to light  
5 work was appropriate, or why the ALJ found Plaintiff “could occasionally climb, balance, stoop, kneel,  
6 crouch, and crawl” but not “climb[] ladders, ropes or scaffolds.” (*See id.* at 26) There simply is no  
7 evidentiary support for these conclusions, which—contrary to the ALJ’s assertion—conflict with  
8 Plaintiff’s testimony that she could stand for a total of two hours in a day, sit for about two hours at one  
9 time, and lift and carry “[l]ess than ten pounds.” (*See* Doc. 10-3 at 52-54) Without medical opinions to  
10 support the ALJ’s conclusions, the physical RFC lacks the support of substantial evidence. *See Perez*,  
11 2018 WL 721399 at \*7-8; *Perez v. Sec’y of Health & Human Servs.*, 958 F.2d 445, 446 (1st Cir. 1991)  
12 (holding “the ALJ’s conclusions are not supported by substantial evidence” if an RFC is formulated  
13 without the findings of a physician). Accordingly, the ALJ erred in evaluating the record and assessing  
14 Plaintiff’s physical RFC.

15 **B. Remand is Appropriate**

16 The decision whether to remand a matter pursuant to sentence four of 42 U.S.C. § 405(g) or to  
17 order immediate payment of benefits is within the discretion of the district court. *Harman v. Apfel*,  
18 211 F.3d 1172, 1178 (9th Cir. 2000). Except in rare instances, when a court reverses an administrative  
19 agency determination, the proper course is to remand to the agency for additional investigation or  
20 explanation. *Moisa v. Barnhart*, 367 F.3d 882, 886 (9th Cir. 2004) (citing *INS v. Ventura*, 537 U.S.  
21 12, 16 (2002)). Generally, an award of benefits is directed when:

- 22 (1) the ALJ has failed to provide legally sufficient reasons for rejecting such evidence,  
23 (2) there are no outstanding issues that must be resolved before a determination of  
24 disability can be made, and (3) it is clear from the record that the ALJ would be required  
25 to find the claimant disabled were such evidence credited.

25 *Smolen v.*, 80 F.3d at 1292. In addition, an award of benefits is directed where no useful purpose would  
26 be served by further administrative proceedings, or where the record is fully developed. *Varney v.*  
27 *Sec’y of Health & Human Serv.*, 859 F.2d 1396, 1399 (9th Cir. 1988).

1 The physical RFC articulated by the ALJ lacks the support of substantial evidence in the record,  
2 and the matter should be remanded for further consideration. *See Tackett*, 180 F.3d at 1102-03  
3 (remanding the matter to the Social Security Administration for reconsideration after finding the ALJ  
4 erred by offering his own medical conclusion, which was not supported by any medical evidence);  
5 *Perez*, 958 F.2d at 446 (finding that where the ALJ offered any opinion “without any assessment of  
6 residual functional capacity by a physician, ...it is necessary to remand for the taking of further  
7 functional evidence”).

8 **CONCLUSION AND ORDER**

9 For the reasons set forth above, the Court finds the ALJ erred in her evaluation of Plaintiff’s  
10 physical RFC and failed to apply the correct legal standards. Consequently, the ALJ’s decision cannot  
11 be upheld by the Court. *See Sanchez*, 812 F.2d at 510. Because the Court finds remand is appropriate  
12 regarding Plaintiff’s physical RFC, it offers no findings on the remaining issues raised by Plaintiff  
13 concerning her mental RFC. Accordingly, the Court **ORDERS**:

- 14 1. Plaintiff’s motion for summary judgment is **GRANTED**;
- 15 2. The matter is **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g) for further  
16 proceedings consistent with this decision; and
- 17 3. The Clerk of Court **IS DIRECTED** to enter judgment in favor of Plaintiff Ruthann Loza  
18 and against Defendant, Nancy A. Berryhill, Acting Commissioner of Social Security.

19  
20 IT IS SO ORDERED.

21 Dated: September 7, 2018

/s/ Jennifer L. Thurston  
22 UNITED STATES MAGISTRATE JUDGE