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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

THOMAS STEPHEN DRUMMOND,

Plaintiff,

v.

MARTIN O’MALLEY,
Commissioner of Social Security,¹

Defendant.

Case No. 1:23-cv-0942 JLT BAM

ORDER ADOPTING THE FINDINGS AND RECOMMENDATIONS, GRANTING PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT, DENYING DEFENDANT’S CROSS-MOTION FOR SUMMARY JUDGMENT, AND REMANDING FOR FURTHER PROCEEDINGS PURSUANT TO SENTENCE FOUR OF 42 U.S.C. § 405(g)

ORDER DIRECTING ENTRY OF JUDGMENT IN FAVOR OF PLAINTIFF THOMAS STEPHEN DRUMMOND AND AGAINST DEFENDANT MARTIN O’MALLEY, COMMISSIONER OF SOCIAL SECURITY

(Docs. 15, 19, and 21)

Thomas Stephen Drummond initiated this action seeking judicial review of a final decision denying his application for benefits under the Social Security Act. (Doc. 1.) The magistrate judge found “ALJ’s decision was not supported by substantial evidence in the record as a whole and was not based on proper legal standards,” because the ALJ failed to properly evaluate Plaintiff’s testimony. (*Id.* at 18; *see also id.* at 9-16.) The magistrate judge determined the matter should be remanded for the ALJ to “address whether Plaintiff’s symptoms testimony is

¹ Martin O’Malley became the Commissioner of Social Security on December 20, 2023. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Martin O’Malley is substituted as the defendant in this suit.

1 adequately supported or whether there are specific, clear and convincing reasons for rejecting
2 Plaintiff's symptoms testimony." (*Id.* at 17.) Therefore, the magistrate judge recommended that
3 Plaintiff's motion for summary judgment be granted, the Commissioner's cross-motion be denied,
4 the decision of the agency be reversed, and judgment be entered in favor of Plaintiff. (*Id.* at 18.)

5 The Court served the Findings and Recommendations on all parties and notified them that
6 any objections were due within 14 days. (Doc. 21 at 18.) The Court advised the parties that the
7 failure to file objections by the specified time may result in the waiver of rights on appeal. (*Id.*,
8 citing *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014).) Neither party filed objections,
9 and the time to do so has passed.

10 According to 28 U.S.C. § 636 (b)(1), this Court performed a *de novo* review of the case.
11 Having carefully reviewed the matter, the Court concludes the Findings and Recommendations
12 are supported by the record and proper analysis. Thus, the Court **ORDERS**:

- 13 1. The Findings and Recommendations issued on May 16, 2024 (Doc. 21) are
14 **ADOPTED** in full.
- 15 2. Plaintiff's motion for summary judgment (Doc. 15) is **GRANTED**.
- 16 3. Defendant's cross-motion for summary judgment (Doc. 19) is **DENIED**.
- 17 4. The administrative decision is reversed, and the matter is **REMANDED** pursuant
18 to sentence four of 42 U.S.C. § 405(g) for further proceedings.
- 19 5. The Clerk of Court is directed to enter judgment in favor of Plaintiff Thomas
20 Stephen Drummond, and against Defendant Martin O'Malley, Commissioner of
21 Social Security, and to close this case.

22
23 IT IS SO ORDERED.

24 Dated: June 4, 2024


UNITED STATES DISTRICT JUDGE