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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

MATT A. FERRANDO,
Plaintiff,

No. CIV S-08-2470-GEB-CMK

vs.

ORDER

COMMISSIONER OF SOCIAL
SECURITY,
Defendant.

_____/

Plaintiff brought this action for judicial review of a final decision of the Commissioner of Social Security under 42 U.S.C. § 405(g).

This court reviewed the Administrative Law Judge’s (ALJ) decision, without the benefit of a fully briefed motion for summary judgement by plaintiff. Instead of addressing the merits of his claims of error as directed, plaintiff argued that a motion for summary judgment was premature based on a subsequent application which had been approved, and continued to argue for a remand. The court conducted a review of the ALJ’s decision denying plaintiff benefits, and determined the ALJ did not error in his decision. In so doing, and without the benefit of plaintiff’s merits brief, the court determined, *inter alia*, that there were contradicting examining medical opinions, which the ALJ provided specific and legitimate reasons for why he

1 credited one and not the other.

2 Plaintiff appealed this court's decision to the Ninth Circuit Court of Appeals. The
3 Ninth Circuit found the ALJ failed to provide clear and convincing reasons for rejecting the
4 evaluation of plaintiff's treating psychiatrist.¹ In it's opinion, the Court remanded this case "for
5 the Commissioner to determine when Ferrando's mental impairments became so severe as to
6 render him disabled, which we would expect to be after April 2005, and before July 27, 2007."
7 (See Doc. 44 at 5). Based on that direction, this case will be remanded to the defendant to make
8 the necessary determination as ordered.

9 Accordingly, IT IS HEREBY ORDERED that:

- 10 1. This case is remanded to the Commissioner of Social Security
11 Administration;
- 12 2. The Commissioner is directed to determine when plaintiff's mental
13 impairments rendered him disabled; and
- 14 3. The Clerk of the Court is directed to close this case.

15 Dated: November 17, 2011

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18 GARLAND E. BURRELL, JR.
United States District Judge

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25 ¹ The Ninth Circuit characterized the medical opinion as a treating psychiatrist
26 where this court determined that the medical opinions were examining opinions based on a single
evaluation and not on-going treatment.