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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

TAGARHEID FAKHRALDIN, for N.F. (a )  
minor), )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
COMMISSIONER OF SOCIAL )  
SECURITY, )  
 )  
Defendant. )  
\_\_\_\_\_ )

Case No.: C 05-2560 PVT

**ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT, DENYING DEFENDANT’S MOTION FOR SUMMARY JUDGMENT, AND REMANDING FOR FURTHER PROCEEDINGS**

Pending before the court are the parties’ respective motions for summary judgment.<sup>1</sup> Based on the briefs and arguments presented,

IT IS HEREBY ORDERED that Plaintiff’s motion for summary judgment is GRANTED IN PART and DENIED IN PART, and Defendant’s motion for summary judgment is DENIED.

IT IS FURTHER ORDERED that this matter is REMANDED to Defendant for further proceedings consistent with this opinion.

The ALJ fairly summarized the facts and the applicable law. (Tr. 17-24.) After doing so, however, the ALJ’s “analysis” consisted of the following:

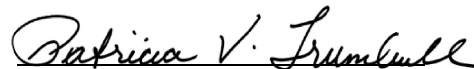
<sup>1</sup> The holding of this court is limited to the facts and the particular circumstances underlying the present motion.

1 “After giving consideration to the full record and the testimony at the hearing, the  
2 undersigned evaluates the claimant’s functional equivalence in the above-noted six  
3 domains as follows: the claimant has less than marked limitations in the domain of  
4 acquiring and using information; marked limitations in the domain of attending and  
5 completing tasks; less than marked limitations in the domain of interacting and  
6 relating with others; less than marked limitations in the domain of moving about and  
7 manipulating objects; no limitations in the domain of caring for yourself; and less  
8 than marked limitations in the domain of health and physical well-being.” (Tr. 24.)

9 This statement fails to explain the ALJ’s reasoning sufficiently to allow meaningful court  
10 review. *See Herron v. Shalala*, 19 F.3d 329, 333 (7<sup>th</sup> Cir. 1994) (ALJ “must articulate at some  
11 minimal level his analysis of the evidence”); *see also, e.g., Baker ex rel. Baker v. Barnhart*, 410  
12 F.Supp.2d 757, 768 (E.D.Wis.2005) (“The ALJ provided no reasons for his conclusion. The  
13 ‘foregoing’ was little more than a summary of some evidence; missing was any explanation of how  
14 the evidence supported the conclusion.”).

15 The court has reviewed the transcript, and it appears there is both substantial evidence in the  
16 record that support the ALJ’s decision (as set forth in Defendant’s brief), and substantial evidence in  
17 the record that could support a finding of disability (as set forth in Plaintiff’s briefs). While a failure  
18 of an ALJ’s to articulate his analysis might constitute harmless error if, based on the record, no  
19 reasonable ALJ could find the evidence established disability, here it appears that reasonable minds  
20 could differ. Unlike situations in which the Ninth Circuit has disapproved of remand for further  
21 proceedings when an ALJ does not articulate sufficient reasons for rejecting specific evidence, here  
22 there is no expressly “rejected” evidence that, if credited, would mandate a finding of disability. *Cf.*  
23 *See Harman v. Apfel*, 211 F.3d 1172, 1178 (9<sup>th</sup> Cir. 2000). Instead, there is simply a record on which  
24 reasonable minds could differ, and thus it is for the ALJ to determine whether disability criteria have  
25 been met. *See Binion v. Chater*, 108 F.3d 780, 782 (7<sup>th</sup> Cir. 1997) (“where conflicting evidence  
26 would allow reasonable minds to differ as to whether a claimant is entitled to benefits, the  
27 responsibility for that decision falls on the ALJ”). In making that determination on remand, the ALJ  
28 must set forth his analysis of the evidence and explain *how* he reached his findings.

Dated: 9/30/08

  
PATRICIA V. TRUMBULL  
United States Magistrate Judge