

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

TAMARA JOHNSON	)	CV 11-123-M-DWM-JCL
	)	
Plaintiff,	)	
v.	)	ORDER
	)	
MICHAEL J. ASTRUE,	)	
Commissioner of Social Security	)	
	)	
Defendant.	)	
_____	)	

Tamara Johnson filed this lawsuit against the Commissioner of Social Security because the Social Security Administration denied her application for disability insurance benefits. The Court referred this case to Magistrate Judge Lynch under 28 U.S.C. § 636(b). Judge Lynch recommends granting Johnson’s motion in part and reversing and remanding in part. The Court agrees and adopts in full Judge Lynch’s Findings and Recommendation.

Neither party objected to Judge Lynch’s Findings and Recommendation. The Court therefore reviews the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

Judge Lynch committed no clear error. The record shows that the

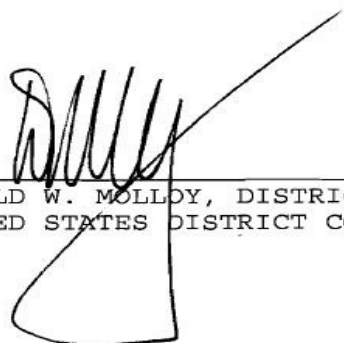
administrative law judge rejected Dr. Patrick Danaher's residual functional capacity assessment without providing any explanation. (*See e.g.* A.R. 20.) This was error. *See Reddick v. Chater*, 157 F.3d 715, 725 (9th Cir. 1998).

Consistent with Judge Lynch's recommendation, remand is appropriate because the administrative law judge must consider whether Johnson is disabled after properly considering Dr. Danaher's opinion.

IT IS ORDERED that Magistrate Judge Lynch's Findings and Recommendation (doc. 24) are ADOPTED IN FULL.

IT IS FURTHER ORDERED that Tamara Johnson's motion for summary judgment (doc. 13) is GRANTED IN PART and the Commissioner's motion for summary judgment (doc. 20) is DENIED. The Commissioner's decision is REVERSED and REMANDED for further proceedings consistent with this order.

Dated this 30<sup>th</sup> day of May 2012.

  
\_\_\_\_\_  
DONALD W. MOLLOY, DISTRICT JUDGE  
UNITED STATES DISTRICT COURT