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6 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 LEAH F. CHAPPELL,

9 Plaintiff,

10 v.

11 NANCY A. BERRYHILL,

12 Defendant.

CASE NO. C16-5847JLR

ORDER REVERSING AND  
REMANDING FOR AN  
IMMEDIATE AWARD OF  
BENEFITS

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14 **I. INTRODUCTION**

15 Plaintiff Leah F. Chappell seeks review of the denial of her application for  
16 disability insurance and supplemental security income (“SSI”) benefits. Ms. Chappell  
17 contends that the Administrative Law Judge (“ALJ”) erred in evaluating the medical  
18 evidence in the record, evaluating Ms. Chappell’s testimony, and evaluating the side  
19 effects of Ms. Chappell’s medications. (Op. Br. (Dkt. # 10) at 1.) Defendant  
20 Commissioner Nancy A. Berryhill (“the Commissioner”) concedes that the ALJ’s  
21 decision was not free of legal error and supported by substantial evidence, arguing that  
22 the case should be remanded for further administrative proceedings. (Resp. Br. (Dkt.  
23 # 17) at 1-2.) Ms. Chappell contends that the case should be remanded for an immediate

1 award of benefits. (Reply Br. (Dkt. # 18) at 1.) Having considered the submissions of  
2 the parties, the relevant portions of the record, and the applicable law, the court  
3 REVERSES the Commissioner’s final decision and REMANDS this matter for an  
4 immediate award of benefits.

## 5 II. BACKGROUND

6 On May 29, 2009, Ms. Chappell protectively filed applications for disability  
7 insurance and SSI benefits. (Administrative Record (“AR”) (Dkt. # 8) at 418.) Ms.  
8 Chappell’s applications were denied initially and on reconsideration. (*Id.*) After a  
9 hearing and an unfavorable decision, Ms. Chappell appealed to this court. (*Id.*) This  
10 court reversed and remanded the matter on January 13, 2014, for further administrative  
11 proceedings. (*Id.*) After the ALJ conducted another hearing on September 18, 2014, the  
12 ALJ issued a decision finding Ms. Chappell not disabled. (*Id.* at 418-48.)

14 In his decision, the ALJ utilized the five-step disability evaluation process,<sup>1</sup> and  
15 the court summarizes the ALJ’s findings as follows:

16 **Step one:** Ms. Chappell has not engaged in substantial gainful activity since  
17 September 1, 2008, the alleged onset date.

18 **Step two:** Ms. Chappell has the following severe impairments: obsessive  
19 compulsive disorder, eating disorder, posttraumatic stress disorder  
20 (“PTSD”)/panic disorder with agoraphobia/social anxiety/anxiety, borderline  
21 personality disorder, depression, obesity, varicose veins, and sprained ankle.

22 **Step three:** Ms. Chappell does not have an impairment or combination of  
23 impairments that meets or equals the requirements of a listed impairment.<sup>2</sup>

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<sup>1</sup> 20 C.F.R. § 416.920.

<sup>2</sup> 20 C.F.R. Part 404, Subpart P, Appendix 1.



1 2001). Specifically, benefits should be awarded where:

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

7 *Smolen*, 80 F.3d 1273 at 1292; *see also McCartey v. Massanari*, 298 F.3d 1072, 1076-77  
8 (9th Cir. 2002).

9 Here, the Commissioner concedes that the first element is met, as the ALJ failed to  
10 provide legally sufficient reasons for rejecting Ms. Chappell's evidence.<sup>4</sup> (*See Resp. Br.*  
11 *at 1-2.*)

12 Next, there are no outstanding issues that must be resolved. The treating  
13 physicians in the record agreed that Ms. Chappell suffered from severe personality  
14 disorder, depressive disorder, panic disorder, and PTSD, resulting in serious symptoms or  
15 impairment in social, occupational, or school functioning. (*See AR at 318, 345.*) The  
16 examining physicians' opinions that the ALJ improperly discounted each stated that Ms.  
17 Chappell would have marked limitations responding appropriately to and tolerating the  
18 pressures and expectations of a normal work setting, among several other severe and  
19 marked limitations in social functioning. (*See id. at 441-44.*)

20 Finally, crediting the improperly discounted opinions as true, Ms. Chappell must  
21 be found disabled. The vocational expert testified that someone who could not maintain

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23 <sup>4</sup> The Commissioner fails to specify which particular errors the Commissioner concedes  
that the ALJ committed, stating only that the Commissioner "determined that the record should  
be re-evaluated." (*See Resp. Br. at 2.*)

1 appropriate behavior interacting with others in the workplace would not be able to  
2 maintain employment. (*See id.* at 540.) Likewise, the vocational expert in the first  
3 hearing testified that a person with the marked limitations to which examining  
4 psychologist Daniel Neims, Psy.D., opined would not be able to maintain employment.  
5 (*See id.* at 61-62.) Furthermore, Social Security Ruling (“SSR”) 96-9p states that even  
6 unskilled work requires responding appropriately to supervision, coworkers, and usual  
7 work situations, and that a substantial loss of one of those abilities would justify a finding  
8 of disability. *See* SSR 96-9p, 1996 WL 374185, at \*9.


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10 Accordingly, the court finds that the record has been fully developed in this case,  
11 and that remanding for further proceedings “would serve no further purpose.” *Smolen*,  
12 80 F.3d at 1292; *Holohan*, 246 F.3d at 1210. The Commissioner argues only that “the  
13 ALJ identified activities, friendships, and medical records which [sic] cast doubt on the  
14 extent of [Ms. Chappell’s] admittedly severe limitations.” (*See* Resp. Br. at 3.) The  
15 Commissioner fails to argue the point with any further specificity. (*See id.*) Here,  
16 allowing the Commissioner to decide these issues again “would create an unfair ‘heads,  
17 we win; tails, let’s play again’ system of disability benefits adjudication.” *Benecke v.*  
18 *Barnhart*, 379 F.3d 587, 595 (9th Cir. 2004); *see also Moisa v. Barnhart*, 367 F.3d 882,  
19 887 (9th Cir. 2004) (noting that the “Commissioner, having lost this appeal, should not  
20 have another opportunity . . . any more than [the claimant], had he lost, should have an  
21 opportunity for remand and further proceedings”). Because review of the record as a  
22 whole does not create serious doubt that Ms. Chappell is disabled, the court remands the  
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1 case for an immediate award of benefits.

2 **IV. CONCLUSION**

3 For the foregoing reasons, the court REVERSES the Commissioner's final  
4 decision and REMANDS this case for an immediate award of benefits.

5 DATED this 27<sup>th</sup> day of April, 2017.

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9 JAMES L. ROBART  
10 United States District Judge  
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