**FOR PUBLICATION**

# UNITED STATES COURT OF APPEALS
# FOR THE NINTH CIRCUIT

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| ANDREA M. FAIN,<br><br>*Plaintiff - Appellant*,<br><br>v.<br><br>FRANK BISIGNANO,<br>Commissioner of Social Security,<br><br>*Defendant - Appellee*. | No. 25-3219<br><br>D.C. No.<br>3:24-cv-05622-<br>MLP<br><br>OPINION |

Appeal from the United States District Court
for the Western District of Washington
Michelle L. Peterson, Magistrate Judge, Presiding

Argued and Submitted July 6, 2026
Portland, Oregon

Filed September 18, 2026

Before: Susan P. Graber, Marsha S. Berzon, and Jennifer Sung, Circuit Judges.

Opinion by Judge Graber

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## SUMMARY*

### Social Security

The panel reversed the district court's judgment affirming a decision of the Commissioner of Social Security denying Claimant Andrea M. Fain's application for disability insurance benefits, and remanded with instructions to remand for further administrative proceedings.

The panel held that the reasons that the administrative law judge ("ALJ") provided for finding unpersuasive the opinion of Claimant's treating physician, Dr. Brandy Thomas, concerning Claimant's fibromyalgia were not valid. On the other hand, substantial evidence supported the ALJ's evaluation of the medical opinions of Drs. Reginald Adkisson, Suzanne Castro, and Rennee Eisenhauer.

The panel held that the ALJ provided specific, clear and convincing reasons for rejecting Claimant's testimony concerning her mental impairments. By contrast, none of the ALJ's reasons for rejecting Claimant's testimony concerning her physical impairments and the symptoms that she experienced due to fibromyalgia was convincing.

The panel held that the ALJ erred by failing to provide any reason for rejecting the lay testimony of Claimant's partner concerning Claimant's symptoms and ability to work. The 2017 revisions to the Social Security Administration's regulations did not abrogate the "germane reasons" standard for discrediting lay testimony in cases,

* This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.

like this one, involving claims filed on or after March 27, 2017. Here, the ALJ gave no reason, germane or otherwise, and thereby legally erred. The error was not harmless.

The panel rejected Claimant's request that the court remand for an award of benefits. Although the ALJ committed several harmful errors in rejecting medical evidence and testimony related to Claimant's physical impairments and symptoms, remand for an award of benefits is inappropriate because further administrative proceedings would be useful.

## COUNSEL

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## OPINION

GRABER, Circuit Judge:

Claimant Andrea M. Fain sought Social Security disability insurance benefits, alleging that a combination of mental and physical impairments prevented her from working. An administrative law judge ("ALJ") ruled that Claimant is not disabled, and the district court affirmed. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's decision and may set aside the ALJ's denial of benefits only if it rests on legal error or is not supported by substantial evidence. Nadon v. Bisignano, 145 F.4th 1133, 1136 (9th Cir. 2025). We reverse and remand.

### FACTUAL AND PROCEDURAL HISTORY

Claimant previously worked as an administrative assistant, administrative clerk, mail clerk, accounting clerk, and receptionist. In December 2018, at the age of 39, she stopped working due to gastrointestinal complications that she attributes to anxiety.

Claimant applied for disability insurance benefits under Title II of the Social Security Act on January 13, 2021, when she was 41 years old. She alleged that she was disabled due to post-traumatic stress disorder ("PTSD"), panic disorder, attention deficit hyperactivity disorder ("ADHD"), major depressive disorder, fibromyalgia, and irritable bowel disease. the agency denied her claim initially and upon reconsideration. Claimant then requested an administrative hearing, which an ALJ held in 2023.

The ALJ denied Claimant's disability claim. At step one of the five-step sequential evaluation process, see 20 C.F.R. § 404.1520(a), the ALJ found that Claimant had not engaged

in substantial gainful activity since December 26, 2018, the alleged onset date of her disability. At step two, the ALJ determined that Claimant has several severe impairments—fibromyalgia, obesity, asthma, major depressive disorder, anxiety disorder, ADHD, insomnia, and PTSD—and numerous non-severe conditions. And at step three, the ALJ concluded that Claimant does not have an impairment or combination of impairments that meets or equals one of the listed impairments in the applicable regulations.

The ALJ then found that Claimant has the residual functional capacity to perform light work [1] with the following limitations: she can climb, stoop, kneel, crouch, crawl, and balance on uneven surfaces only occasionally; she can have exposure to extreme temperatures, weather, concentrated airborne irritants, and hazards only occasionally; and she is limited to performing simple, routine, and repetitive tasks, to working in a low-stress environment that requires only occasional decision-making and only occasional changes in work setting, and to interacting with co-workers and the public only occasionally. Given Claimant's residual functional capacity, the ALJ found, at step four, that Claimant could perform her past relevant work as a mail clerk and, alternatively, at step five, that Claimant could perform other jobs that exist in significant numbers in the national

[1] "Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls. To be considered capable of performing a full or wide range of light work, [a claimant] must have the ability to do substantially all of these activities." 20 C.F.R. § 404.1567(b).

economy. The ALJ thus held that Claimant had not been disabled during the relevant period.

After the Appeals Council denied Claimant's request for review, Claimant filed a civil action in district court, pursuant to 42 U.S.C. § 405(g), seeking review of the agency's final decision. The district court affirmed the denial of Claimant's application for disability insurance benefits. This timely appeal followed. See Fed. R. App. P. 4(a)(1)(B).

## DISCUSSION

Claimant argues that the ALJ committed several harmful errors: (A) failing to evaluate the medical evidence properly; (B) improperly rejecting Claimant's testimony regarding the severity of her symptoms; and (C) failing to provide any reason to reject the testimony of Claimant's partner concerning Claimant's symptoms and ability to work.

### A. Evaluation of Medical Evidence

Because Claimant filed her claim after March 27, 2017, the ALJ's evaluation of medical evidence is governed by the agency's revised regulations. See Woods v. Kijakazi, 32 F.4th 785, 789 (9th Cir. 2022); see also 20 C.F.R. § 404.1520c(a)–(c).[2] Under those regulations, the agency "must articulate how persuasive it finds all of the medical opinions from each doctor or other source and explain how it considered the supportability and consistency factors in reaching these findings." Woods, 32 F.4th at 792 (citation modified).

[2] The full text of 20 C.F.R. § 404.1520c appears in an appendix to this opinion.

1. The reasons that the ALJ provided for finding unpersuasive the opinion of Claimant's treating physician, Dr. Brandy Thomas, are not valid. See Revels v. Berryhill, 874 F.3d 648, 654 (9th Cir. 2017) ("We review only the reasons provided by the ALJ in the disability determination and may not affirm the ALJ on a ground upon which he did not rely." (citation omitted)). Dr. Thomas opined that Claimant's fibromyalgia rendered Claimant capable of only less-than-sedentary work and would cause Claimant to take frequent breaks, be off-task 25% or more of the time, and be absent from work more than four days each month.

The ALJ discredited Dr. Thomas's opinion in part because Claimant's medical records demonstrated that her gait, motor strength, and range of motion generally remained normal. That reasoning reflects a "fundamental misunderstanding of fibromyalgia." Id. at 662; see also id. ("In evaluating whether a claimant's residual functional capacity renders them disabled because of fibromyalgia, the medical evidence must be construed in light of fibromyalgia's unique symptoms and diagnostic methods . . . ."). "[N]ormal muscle strength, tone, and stability, as well as a normal range of motion," are all "perfectly consistent with debilitating fibromyalgia." Id. at 666.

The ALJ also found that Dr. Thomas's opinion is inconsistent with Claimant's having taught yoga classes online. But Claimant never taught yoga. The record demonstrates only that, in March 2020, Claimant had "been doing online yoga classes." There are material differences, which matter in this context, between teaching a yoga class and taking one. For example, as a participant in yoga classes, Claimant likely would not have experienced any consequences for missing sessions on days when her fibromyalgia symptoms flared or for performing only some

of the class's activities. See generally id. at 663 (explaining that "the symptoms of fibromyalgia 'wax and wane,'" such that "a person may have 'bad days and good days'" (citation omitted)). But if Claimant had in fact been a yoga instructor, numerous absences or partial performance likely would have led to class attrition. Because the ALJ may have believed that Claimant was able to teach yoga even on days when her fibromyalgia symptoms were relatively severe, which would be inconsistent with Dr. Thomas's opinion, the ALJ's reliance on that factual error to reject Dr. Thomas's opinion was not harmless. See Ford v. Saul, 950 F.3d 1141, 1154 (9th Cir. 2020) (explaining that an error is harmless only if it is "inconsequential to the ultimate nondisability determination" (citation omitted)).

Finally, the ALJ determined that Dr. Thomas's opinion is not supported because the restrictions that Dr. Thomas recommended were based on Claimant's own estimates of her abilities. But, because the ALJ did not explain why Claimant's self-estimates are not reliable, the fact that they provided a foundation for Dr. Thomas's assessment is not, by itself, a valid reason to discredit Dr. Thomas's opinion. See Revels, 874 F.3d at 663 (holding that an ALJ erred by rejecting a medical opinion concerning limitations caused by fibromyalgia on the ground that certain examinations supporting the opinion were "solely based on subjective pain complaints").

2. On the other hand, substantial evidence supports the ALJ's evaluation of the medical opinions of Drs. Reginald Adkisson, Suzanne Castro, and Rennee Eisenhauer. See Woods, 32 F.4th at 787 ("[A]n ALJ's decision, including the decision to discredit any medical opinion, must simply be supported by substantial evidence."). The ALJ found Dr. Adkisson's opinion persuasive and permissibly "translat[ed]

and incorporate[ed]" the moderate limitations that Dr. Adkisson described "into a succinct [residual functional capacity]" assessment. Rounds v. Comm'r Soc. Sec. Admin., 807 F.3d 996, 1006 (9th Cir. 2015). And the ALJ provided a rational explanation of how Dr. Castro's and Dr. Eisenhauer's opinions were neither adequately supported nor consistent with other evidence in the record. See Shaibi v. Berryhill, 883 F.3d 1102, 1108 (9th Cir. 2017) ("As we cannot say that the ALJ's interpretation of the available evidence was not rational, the ALJ's conclusions were supported by substantial evidence."), as amended (Feb. 28, 2018).

B. Evaluation of Claimant's Testimony

The ALJ determined that Claimant presented objective medical evidence of severe mental and physical impairments that could reasonably be expected to produce her alleged symptoms, and the ALJ found no evidence of malingering. Accordingly, the ALJ was required to "offer[ ] specific, clear and convincing reasons" for discounting Claimant's "testimony about the severity of [her] symptoms." Ferguson v. O'Malley, 95 F.4th 1194, 1199 (9th Cir. 2024) (citation omitted).

1. The ALJ provided such reasons when rejecting Claimant's testimony concerning her mental impairments and the symptoms that she experiences due to anxiety, ADHD, PTSD, insomnia, and major depressive disorder. The ALJ explained why the alleged severity of those symptoms is inconsistent with the medical evidence, Claimant's activities, and her treatment. For example, providers generally noted that Claimant's cognition was intact; Claimant was cooperative, alert, and oriented during medical appointments; and she never required psychiatric

hospitalization. Moreover, Claimant admitted to shopping by herself "maybe twice a month" and having gone on camping trips and to a comedy club with friends.

When discounting Claimant's testimony concerning her mental impairments, the ALJ also repeated the factual error that Claimant taught online yoga classes. In this context, that error was harmless because the ALJ's "path may reasonably be discerned." Treichler v. Comm'r of Soc. Sec. Admin., 775 F.3d 1090, 1099 (9th Cir. 2014) (citation omitted). Although Claimant did not teach yoga online, she did teach an online history class that did not require any physical exertion, with 40 students. Claimant's interacting with dozens of students regularly and without difficulty is inconsistent with her testimony that "dealing with people will knock [her] down for a day or two."

2. By contrast, none of the ALJ's reasons for rejecting Claimant's testimony concerning her physical impairments and the symptoms that she experiences due to fibromyalgia is convincing. For the reasons that we discussed when analyzing the ALJ's rejection of Dr. Thomas's opinion, the ALJ erred by discrediting Claimant's complaints of fibromyalgia pain on account of findings of normal gait, muscle strength, and range of motion, see Revels, 874 F.3d at 666, and on account of the ALJ's mistaken belief that Claimant taught yoga classes, see Ford, 950 F.3d at 1154.

The ALJ also erred by relying on the absence of numerous tender-point examinations to discredit Claimant's testimony about the severity of her symptoms from fibromyalgia. See Ferguson, 95 F.4th at 1201 ("[A]s we have repeatedly held, at step two of the symptom analysis, the ALJ cannot rely on an absence of positive medical evidence to discredit a claimant's subjective symptom

testimony."). Tender-point examinations are used to diagnose fibromyalgia, not to determine the severity of fibromyalgia symptoms. See generally Revels, 874 F.3d at 656–57 (describing two sets of criteria for diagnosing fibromyalgia, one of which requires that the patient "has tenderness in at least eleven of eighteen specified points on her body"). And the only tender-point examination in the record—which reflects that Claimant had sixteen out of eighteen tender points—substantiates her diagnosis. Moreover, the ALJ already had determined that Claimant's fibromyalgia constitutes a severe impairment and acknowledged that Claimant repeatedly complained to providers of pain, stiffness, and aching related to her fibromyalgia.

C. Evaluation of Lay Testimony

"In determining whether a claimant is disabled, an ALJ must consider lay witness testimony concerning a claimant's ability to work." Stout v. Comm'r Soc. Sec. Admin., 454 F.3d 1050, 1053 (9th Cir. 2006); see also 20 C.F.R. § 404.1513(a)(4) (defining "[e]vidence from nonmedical sources"); id. § 404.1529(c)(3) (requiring ALJs to "carefully consider" information from nonmedical sources concerning "the intensity and persistence of [a claimant's] symptoms," including statements about "any symptom-related functional limitations and restrictions"). Accordingly, we have held that "competent lay witness testimony 'cannot be disregarded without comment.'" Molina v. Astrue, 674 F.3d 1104, 1114 (9th Cir. 2012) (quoting Nguyen v. Chater, 100 F.3d 1462, 1467 (9th Cir. 1996)), superseded on other grounds by 20 C.F.R. § 404.1502(a); see also Diedrich v. Berryhill, 874 F.3d 634, 640 (9th Cir. 2017) (same). To be sure, extensive analysis is not required; "[a]n ALJ need only give germane reasons for discrediting the testimony of lay

witnesses." Bayliss v. Barnhart, 427 F.3d 1211, 1218 (9th Cir. 2005). And the failure to provide such reasons can be harmless, but it is an error nonetheless. See Molina, 674 F.3d at 1114–15, 1122.

In Woods, we held that revisions to the Social Security Administration's regulations, promulgated in 2017, "displace[d] our longstanding case law" that had established a "hierarchy of medical opinions." 32 F.4th at 787. Here, the government argues that the revised regulation primarily at issue in Woods, 20 C.F.R. § 404.1520c, also abrogated the "germane reasons" standard for discrediting lay testimony in cases, like this one, involving claims filed on or after March 27, 2017. We disagree.

The cited regulation is titled "How we consider and articulate medical opinions and prior administrative medical findings for claims filed on or after March 27, 2017." 20 C.F.R. § 404.1520c. Paragraphs (a)–(c) of the regulation establish factors that an ALJ must consider when evaluating "medical opinion(s) and prior administrative medical finding(s)." Id. § 404.1520c(a)–(c). For example, the regulation requires an ALJ to consider "[t]he kinds and extent of examinations and testing the medical source has performed or ordered from specialists or independent laboratories," id. § 404.1520c(c)(3)(iv), and to take note of whether the "medical source . . . has received advanced education and training to become a specialist," id. § 404.1520c(c)(4). Paragraphs (a)–(c) also describe in detail how an ALJ must articulate decisions regarding the persuasiveness of such medical evidence. See id. § 404.1520c(a)–(c); see also Woods, 32 F.4th at 792 (explaining that paragraph (b) requires an ALJ to "'articulate . . . how persuasive' it finds 'all of the medical opinions' from each doctor or other source" and "'explain how [it]

considered the supportability and consistency factors' in reaching these findings" (alterations in original) (quoting 20 C.F.R. § 404.1520c(b))).

Paragraph (d), on which the government relies, provides that ALJs "are not required to articulate how [they] considered evidence from nonmedical sources using the requirements in paragraphs (a)–(c)." 20 C.F.R. § 404.1520c(d) (emphasis added). Paragraph (d) plainly does not mean that ALJs need not articulate at all why nonmedical sources are discounted. The provision states only the obvious proposition that ALJs need not articulate the evaluation of nonmedical sources using the same criteria that apply to the analysis of evidence from medical sources. In other words, paragraph (d) simply makes explicit that the detailed and precise manner in which ALJs must consider and articulate reliance, or lack of reliance, on medical sources does not apply to evidence from nonmedical sources. The government's contrary interpretation inappropriately reads out the final clause of paragraph (d)—"using the requirements in paragraphs (a)–(c)." Id.; see United States v. Nature, 898 F.3d 1022, 1024 (9th Cir. 2018) ("We construe regulations, like statutes, to give effect to every word when possible.").

Other aspects of the Social Security Administration's revised regulations confirm our interpretation of § 404.1520c(d). Most pertinently, the revised regulations expressly list the limited types of evidence, such as decisions by other governmental agencies, about which ALJs need not provide any analysis or explanation. See 20 C.F.R. § 404.1520b(c) ("Because the evidence listed in paragraphs (c)(1) through (c)(3) of this section is inherently neither valuable nor persuasive to the issue of whether you are disabled or blind under the [Social Security] Act, we will not

provide any analysis about how we considered such evidence in our determination or decision . . ."). Tellingly, that list does not include lay testimony, nor does any other regulation so provide. Cf. Washington v. U.S. Dep't of State, 996 F.3d 552, 562 (9th Cir. 2021) (explaining that "omissions from a statute should be understood as intentional exclusions" when "it is fair to suppose that Congress considered the unnamed possibility and meant to say no to it" (citations omitted)). Rather, the regulations clearly contemplate that nonmedical sources provide information that may be valuable to ALJs' disability determinations. See 20 C.F.R. § 404.1529(c)(3) ("The information that . . . medical sources or nonmedical sources provide about [a claimant's] pain or other symptoms . . . is also an important indicator of the intensity and persistence of [the claimant's] symptoms." (emphasis added)).

Finally, it is not surprising that the regulations do not dispense with the foundational requirement that an ALJ set forth at least some reasoning for rejecting competent testimony. That requirement follows from our statutory authority to review ALJs' decisions. See 42 U.S.C. § 405(g). If ALJs did not have to explain their reasoning, it would be difficult—if not impossible—for us to conduct a meaningful review of their decisions when, for instance, a claimant presents extensive evidence from family members and friends. See Brown-Hunter v. Colvin, 806 F.3d 487, 492 (9th Cir. 2015) ("[T]he agency [must] set forth the reasoning behind its decisions in a way that allows for meaningful review. A clear statement of the agency's reasoning is necessary because we can affirm the agency's decision to deny benefits only on the grounds invoked by the agency."); see also Drumgold v. Comm'r of Soc. Sec., 144 F.4th 596, 605 (4th Cir. 2025) ("[A]ppellate review is possible only

when someone has first articulated a view. Missing analysis 'makes it impossible for a reviewing court to evaluate whether substantial evidence supports the ALJ's findings.'" (citations omitted)); Scrogham v. Colvin, 765 F.3d 685, 695 (7th Cir. 2014) ("In addition to relying on substantial evidence, the ALJ must also explain his analysis of the evidence with enough detail and clarity to permit meaningful appellate review." (citation omitted)); Burnett v. Comm'r of Soc. Sec. Admin., 220 F.3d 112, 122 (3d Cir. 2000) (holding that an ALJ cannot reject lay testimony without explanation).

We emphasize that the "germane reasons" requirement is not onerous. It may be sufficient for the ALJ to state, for example, that the witness did not base his comments on personal observation, cf. Valentine v. Comm'r Soc. Sec. Admin., 574 F.3d 685, 694 (9th Cir. 2009) ("[F]riends and family members in a position to observe a claimant's symptoms and daily activities are competent to testify as to his or her condition." (alteration adopted) (citation omitted)), or that the claimant's daily activities contradict the witness's assessment, see Carmickle v. Comm'r Soc. Sec. Admin., 533 F.3d 1155, 1164 (9th Cir. 2008) (upholding the ALJ's rejection of a lay witness's testimony on the ground that the testimony was "inconsistent with [the claimant's] successful completion of continuous full-time coursework"), or that a medical opinion that conflicts with the lay testimony is more persuasive, Lewis v. Apfel, 236 F.3d 503, 511 (9th Cir. 2001) ("One reason for which an ALJ may discount lay testimony is that it conflicts with medical evidence.").

Here, the ALJ gave no reason, germane or otherwise, and thereby legally erred. The error was not harmless. Claimant's partner's statements included relevant details

about Claimant's symptoms that Claimant did not mention during her hearing before the ALJ. For example, her partner explained that, when Claimant manages to do light household chores, such as washing laundry or preparing dinner, her completion of those tasks is "[sporadic] and drawn out," taking "2 to 3 times" longer than "a normal expectation." And, when Claimant's fibromyalgia symptoms flare, her partner reported that she is "unable to do more than dress and feed herself." Those statements suggest that, at least on bad days, Claimant could not function in a workplace. See Stout, 454 F.3d at 1056 ("[W]here the ALJ's error lies in a failure to properly discuss competent lay testimony favorable to the claimant, a reviewing court cannot consider the error harmless unless it can confidently conclude that no reasonable ALJ, when fully crediting the testimony, could have reached a different disability determination.").

D. Further Administrative Proceedings

Claimant asks that we remand for an award of benefits. Although the ALJ committed several harmful errors in rejecting medical evidence and testimony related to Claimant's physical impairments and symptoms, remand for an award of benefits is inappropriate because further administrative proceedings would be useful. See Treichler, 775 F.3d at 1099–1102 (explaining that, when an ALJ commits harmful error in denying disability benefits, "the proper course, except in rare circumstances, is to remand to the agency for additional investigation or explanation" (quoting Fla. Power & Light Co. v. Lorion, 470 U.S. 729, 744 (1985))). We therefore reverse and remand to the district court with instructions to remand to the agency for further proceedings. See 42 U.S.C. § 405(g).

**REVERSED; REMANDED WITH INSTRUCTIONS to remand for further administrative proceedings.**