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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

PATSY WERNER,

Plaintiff - Appellant,

v.

COMMISSIONER, SOCIAL SECURITY
ADMINISTRATION,

Defendant - Appellee.

No. 07-35729

D.C. No. CV-06-00600-HU (BR)

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Anna J. Brown, District Judge, Presiding

Argued and Submitted March 4, 2009
Portland, Oregon

Before: GRABER, FISHER and M. SMITH, Circuit Judges.

Patsy Werner appeals from the Commissioner's denial of disability benefits, arguing that the administrative law judge ("ALJ") made a series of factual errors that prejudiced her claim. We have jurisdiction under 28 U.S.C. § 1291, and we reverse.

*This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

The ALJ misread the handwritten notes of Werner's psychiatrist, Dr. James Douglas, and incorrectly found that Dr. Douglas' notes were internally inconsistent. The ALJ stated that Werner's sister reported seeing her almost daily, when the sister actually said she saw Werner twice a week. The ALJ noted that Werner did not take pain medication, but the record shows Werner was consistently prescribed, and took, pain medication. The ALJ stated that no examining physician had ever found fibromyalgia tender points, but Dr. Kelly Krohn noted such points in 1995. The ALJ found that Werner had never requested medication to address diarrhea, but the record shows Werner requested and was prescribed Lomotil, which the ALJ incorrectly described as available over the counter. The ALJ stated that there were no medical reports of severe headaches, but the record is replete with evidence that Werner complained of severe migraines that disabled her for several days at a time.

Given the number of errors and their apparent effect on the ALJ's assessment of Werner's credibility, the errors taken together are not harmless. *See Stout v. Comm'r SSA*, 454 F.3d 1050, 1055-56 (9th Cir. 2006). We hold that the ALJ must reconsider Werner's application on an accurate understanding of the record.

REVERSED AND REMANDED.