

MAY 06 2011

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

DIANE ROXBURY,

Plaintiff - Appellant,

v.

**COMMISSIONER, SOCIAL
SECURITY ADMINISTRATION,**

Defendant - Appellee.

No. 10-35370

D.C. No. 6:08-cv-00951-HO

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Michael R. Hogan, District Judge, Presiding

Submitted May 4, 2011**
Portland, Oregon

Before: **KOZINSKI**, Chief Judge, **BEA** and **IKUTA**, Circuit Judges.

The district court didn't abuse its discretion in determining that Roxbury is not entitled to an immediate award of benefits because, even crediting the state doctors' opinions as true, it's not "clear from the record that the ALJ would be

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

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

required to find the claimant disabled” given the state doctors’ conclusion that Roxbury had no limitations on handling or fingering. Smolen v. Chater, 80 F.3d 1273, 1292 (9th Cir. 1996). Moreover, there are “sufficient unanswered questions in the record that the district court’s determination to remand the case for further proceedings was not an abuse of discretion.” Harman v. Apfel, 211 F.3d 1172, 1180 (9th Cir. 2000); see also Strauss v. Comm’r of the Soc. Sec. Admin., No. 10-35139, 2011 WL 1108221, at *2 (9th Cir. Mar. 28, 2011).

AFFIRMED.