

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 17 2017

FOR THE NINTH CIRCUIT

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

JOHN LEE MCLAUGHLIN,

No. 14-17328

Plaintiff-Appellant,

D.C. No. 2:13-cv-00780-SLG

v.

MEMORANDUM\*

NANCY A. BERRYHILL, Acting  
Commissioner Social Security,

Defendant-Appellee.

Appeal from the United States District Court  
for the District of Arizona  
Sharon L. Gleason, District Judge, Presiding

Submitted February 15, 2017\*\*  
San Francisco, California

Before: CANBY, SILER,\*\*\* and HURWITZ, Circuit Judges.

The sole issue in this appeal is whether the district court abused its discretion in remanding John McLaughlin's claim for disability benefits to the Social Security

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

\*\*\* The Honorable Eugene E. Siler, United States Circuit Judge for the U.S. Court of Appeals for the Sixth Circuit, sitting by designation.

Administration for further proceedings, rather than ordering an award of benefits. We have jurisdiction under 28 U.S.C. § 1291 and affirm.

1. The district court concluded, and the Commissioner concedes on appeal, that the administrative law judge (“ALJ”) erred in discrediting the medical opinion of one of McLaughlin’s treating physicians without providing specific and legitimate reasons supported by substantial evidence. The ALJ also erred in discrediting the opinion of a nurse practitioner without providing reasons germane to her. *See Molina v. Astrue*, 674 F.3d 1104, 1111 (9th Cir. 2012).

2. Although the credit-as-true rule permits remand for an immediate award of benefits in some cases when an ALJ improperly discredits a medical opinion, a remand for further proceedings remains appropriate if conflicts in the record create a serious doubt that a claimant is disabled. *See Treichler v. Comm’r of Soc. Sec. Admin.*, 775 F.3d 1090, 1101, 1107 (9th Cir. 2014). The district court did not abuse its discretion by concluding that the record in this case contains substantial evidence consistent with non-disability, including evidence that McLaughlin’s pain and symptoms were well-treated by treatment and medication.<sup>1</sup>

**AFFIRMED.**

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<sup>1</sup> Because we remand on an open record, we do not address McLaughlin’s arguments that the ALJ improperly discounted his testimony about his symptoms and subjective pain.