

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 30 2017

FOR THE NINTH CIRCUIT

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

AMY HOLBROOK,

Plaintiff-Appellant,

v.

NANCY A. BERRYHILL, Acting
Commissioner of Social Security,

Defendant-Appellee.

No. 15-35552

D.C. No. 1:14-cv-03039-FVS

MEMORANDUM *

Appeal from the United States District Court
for the Eastern District of Washington
Fred L. Van Sickle, District Judge, Presiding

Submitted August 28, 2017**

Before: D.W. NELSON, TROTT, and SILVERMAN, Circuit Judges.

Amy Holbrook appeals the district court's decision affirming the Commissioner of Social Security's denial of her applications for disability insurance benefits and supplemental security income under Titles II and XVI of the

* 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).

Social Security Act. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Berry v. Astrue*, 622 F.3d 1228, 1231 (9th Cir. 2010), and we reverse and remand.

The administrative law judge (“ALJ”) failed adequately to consider a Washington State decision finding Holbrook disabled approximately four months prior to her alleged Social Security disability onset date. *See* Social Security Ruling 06-03p (stating that “evidence of a disability decision by another governmental or nongovernmental agency cannot be ignored and must be considered”). The ALJ failed to provide persuasive, specific, and valid reasons for not according the Washington State decision great weight. *See Berry*, 622 F.3d at 1236 (holding that a decision of another agency is ordinarily entitled to great weight when that agency’s disability program bears a “marked similarity” to the Social Security disability program); Wash. Admin. Code § 182-512-0050 (2014) (previously codified as Wash. Admin. Code § 388-475-0050) (providing for use of the five-step Social Security analytic framework).

The ALJ’s error was not harmless because we cannot say that it was inconsequential to the ultimate nondisability determination. *See Treichler v. Comm’r of Soc. Sec. Admin.*, 775 F.3d 1090, 1099 (9th Cir. 2014). We therefore reverse the district court’s judgment and remand with instructions to remand to the agency for further proceedings. *See id.* at 1100-02.

Each party shall bear its own costs on appeal.

REVERSED and REMANDED.