NOT FOR PUBLICATION

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U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DARIN WILLERT, Plaintiff-Appellant, v. FRANK BISIGNANO, Commissioner of Social Security, Defendant-Appellee.	No. 24-7662 D.C. No. 3:24-cv-05079-TLF MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Theresa Lauren Fricke, Magistrate Judge, Presiding

Argued and Submitted March 12, 2026
Portland, Oregon

Before: COLLINS and LEE, Circuit Judges, and FITZWATER, District Judge.**

Darin Willert appeals from a district court order affirming the Social Security Commissioner's denial of his applications for disability insurance benefits under

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

** The Honorable Sidney A. Fitzwater, United States District Judge for the Northern District of Texas, sitting by designation.

Title II and supplemental security income under Title XVI of the Social Security Act. We have jurisdiction under 28 U.S.C. § 1291. We reverse and remand.

We review de novo a district court order affirming an Administrative Law Judge's (ALJ) denial of benefits and will reverse only if the ALJ's decision was not supported by substantial evidence or relied on legal error. *Ford v. Saul*, 950 F.3d 1141, 1153-54 (9th Cir. 2020).

1. Substantial evidence does not support the ALJ's residual functional capacity (RFC) finding concerning Willert's need to elevate his legs on account of lower extremity edema.

The ALJ determined Willert's edema was a "severe" impairment. To address this impairment, the ALJ concluded that Willert "must be allowed to elevate his legs 8 inches to relieve lower extremity edema." But Willert repeatedly testified that he needs to elevate his feet *above his heart* throughout the day to relieve lower extremity edema. When asked whether he could "elevate [his] feet . . . straight across . . . onto a chair," Willert responded, "They usually go higher. . . . I'd say my feet would actually be above my heart." And when asked whether he used "a little footstool" to elevate his feet, Willert responded by explaining that he would lay down and prop his feet on the arm of his couch or on top of pillows. On appeal, Willert argues that the ALJ selected the height of eight inches solely because that is the maximum height the vocational expert indicated could still permit a finding of

"not disabled." He further argues that heart-level is the threshold height at which elevating one's feet can relieve edema.

Here, nothing in the record connects the ALJ's chosen height of eight inches to edema relief. The government suggests that this does not matter because the ALJ provided "clear and convincing reasons" for discounting Willert's testimony about the severity of his edema and thus was permitted to include *no* limitation yet included one anyway "out of an abundance of caution." *See Brown-Hunter v. Colvin*, 806 F.3d 487, 488-89 (9th Cir. 2015) (noting an ALJ may reject a claimant's testimony about the severity of his symptoms by "providing specific, clear, and convincing reasons for doing so"). But even if the ALJ provided "clear and convincing" reasons for discounting some of Willert's testimony regarding the severity of his edema, he did not provide a reason for rejecting Willert's testimony that if/when Willert raised his feet to relieve edema, it needed to be at or above heart-level. Additionally, the government's proffered characterization of the ALJ's decision belies the ALJ's express finding that Willert's edema was "severe."

We reverse on this issue and remand for the ALJ to further develop the record and determine whether substantial evidence supports the ALJ's chosen height.

2. The ALJ failed to provide "clear and convincing reasons" for rejecting Willert's testimony regarding his frequent need to urinate. *See id*.

The ALJ's decision recounts Willert's testimony that "he used the bathroom every 15 to 20 minutes for 6 hours after taking his medication" and could "stand for 10 to 15 minutes, after which [he] would have to go to the bathroom or sit with his feet up because they ached." But the ALJ never provides a reason—let alone a "clear and convincing" one—for rejecting this specific testimony. *See id*. Instead, the ALJ appears to rely on the reach of his general finding that Willert's statements "concerning the intensity, persistence, and limiting effects of [his] symptoms are not fully consistent with the medical evidence." But such general statements are not sufficient to reject a claimant's testimony about the severity of his symptoms; an ALJ must "show his work." *Smartt v. Kijakazi*, 53 F.4th 489, 499 (9th Cir. 2022); *see also Lambert v. Saul*, 980 F.3d 1266, 1277 (9th Cir. 2020) (rejecting the ALJ's "boilerplate statement" that "the claimant's statements concerning the intensity, persistence and limiting effects of [her] symptoms are not entirely consistent with the objective medical and other evidence" without identifying "what parts of the claimant's testimony were not credible and why" (alteration in original) (citation and internal quotation marks omitted)).

Indeed, after recounting Willert's testimony regarding his frequent need to urinate, the ALJ never returned to the testimony nor to the topic of bathroom needs generally. The ALJ never explained his reasons for declining to include an RFC limitation to accommodate the alleged frequency of Willert's bathroom needs.

Because an ALJ must "specify which testimony she finds not credible, and then provide clear and convincing reasons, supported by evidence in the record," to support that determination, *Brown-Hunter*, 806 F.3d at 489, we also reverse on this issue and remand.

REVERSED AND REMANDED.