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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>LESLIE ALLEN ADAMS,</p> <p style="text-align: center;">Plaintiff - Appellant,</p> <p>v.</p> <p>MICHAEL J. ASTRUE, Commissioner, Social Security Administration,</p> <p style="text-align: center;">Defendant - Appellee.</p>

No. 08-16458

DC No. CV 07-01188 NVW

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Neil V. Wake, District Judge, Presiding

Submitted October 9, 2009**
San Francisco, California

Before: RYMER and TASHIMA, Circuit Judges, and RESTANI,*** Judge.

Leslie Allen Adams appeals the final decision of the Commissioner of Social

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

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

*** The Honorable Jane A. Restani, Chief Judge, United States Court of International Trade, sitting by designation.

Security, finding that Adams suffered a closed period of disability under the Social Security Act. The district court reversed and remanded for further proceedings after concluding that substantial evidence did not support the end-date of the closed period. Adams argues that the district court abused its discretion by failing to order immediate reinstatement of benefits. We have jurisdiction under 28 U.S.C. § 1291, and affirm.

We review for abuse of discretion the question of whether a case should be remanded for further proceedings or for an award of benefits. *Benecke v. Barnhart*, 379 F.3d 587, 590 (9th Cir. 2004); *see also Sprague v. Bowen*, 812 F.2d 1226, 1232 (9th Cir. 1987) (“The decision whether to remand a case for additional evidence, or simply to award benefits is within the discretion of the court.”).

Under the principles of *INS v. Ventura*, 537 U.S. 12 (2002), courts should ordinarily remand a case to the agency for determination of issues within “the agency’s legally mandated role.” *Id.* at 16-17. A social security case should be remanded for further proceedings “[i]f additional proceedings can remedy defects in the original administrative proceedings.” *Lewin v. Schweiker*, 654 F.2d 631, 635 (9th Cir. 1981). In this case, because additional proceedings could shed light on whether Adams’ disability has ended, and if so when it ended, the district court did not abuse its discretion by remanding for further proceedings. Moreover, because

questions remain regarding Adams' disability termination date, the credit-as-true doctrine is inapplicable to this case. *See Benecke*, 379 F.3d at 593 (requiring "no outstanding issues" before the district court should credit evidence).

The order of the district court is **AFFIRMED**.