(SS) Valerie Ann Patterson v. Commissioner of Social Security

2020 | Cited 0 times | E.D. California | June 23, 2020

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

VALERIE ANN PATTERSON,

Plaintiff, v. ANDREW SAUL, Commissioner of Social Security,

Defendant.

_____/

Case No. 1:19-cv-00174-SKO

ORDER ON PLAINTIFF S SOCIAL SECURITY COMPLAINT

(Doc. 1)

I. INTRODUCTION On February 7, 2019, Plaintiff Valerie Ann Patterson (Plaintiff) filed a complaint under 42 U.S.C. § 405(g) seeking judicial review of a final decision of the Commissioner of Social Security (the Commissioner or Defendant) denying her application for disability insurance benefits (DIB) under Title II of the Social Security Act (the Act). The matter is currently before the Court on the parties briefs, which were submitted, without oral argument, to the Honorable Sheila K. Oberto, United States Magistrate Judge. 1

1 The parties consented to the jurisdiction of a U.S. Magistrate Judge. (Docs. 7, 8.)

II. FACTUAL BACKGROUND On July 9, 2014, Plaintiff protectively filed an application for DIB and SSI payments, alleging she became disabled on June 20, 2014 due to . (Administrative Record (AR) 15, 66, 81, 190 200.) Plaintiff was born on June 23, 1960, and was 53 years old as of the alleged onset date. (AR 66.) Plaintiff has a high school education and past work experience as a home attendant and last worked full-time in approximately 2014. (AR 12, 25, 62, 78.) A. Summary of Relevant Medical Evidence 2

1. Caaithiry Jayaraman, M.D. In June 2014, Plaintiff reported to Madera County Behavioral Health

Services for mental In August 2014, Plaintiff established care with

psychiatrist Caaithiry Jayaraman at Madera County Behavioral Health Services. (AR 346.) At the initial evaluation, Dr. Jayaraman note delusional and paranoid. (AR 407 08.) Dr. Jayaraman diagnosed Plaintiff with anxiety disorder

and major depressive disorder. (AR 410.) At a follow-up appointment on September 16, 2014, Dr. Jayaraman noted that Plaintiff was prescribed Prozac, Buspar, and trazadone. (AR 413.) In November 2014, Plaintiff reported that the medications improved her mood and anxiety. (AR 346.) On April 3, 2015, Dr. Jayaraman noted On June 11, 2015, Plaintiff reported to Dr. Jayaraman that her

thirty days. (AR 522.) In September 2015, Plaintiff stated her mood and anxiety had

improved, and her mother had moved in with her which provided her with needed support. (AR 514.) cations continue[d] to help d 2

see Doc. 14 at 9 16), this summary is limited to evidence related to Plain

2. Randolph Acedo, M.D. See, e.g., AR 330.) On

reported to him On September 16, 2014, Dr. Acedo noted (AR 323 25.) -out of

65.)

not depressed, and had improved affect. (AR 373.) On March 17, 2016, Dr. Acedo stated that

Plaintiff was calm and collected but still had ideas of self-harm. (See AR 464.) Dr. Acedo On October 19, 2016, Dr. Acedo noted Plaintiff was stressed but controlled emotionally, and that an 46.) In December 2016,

described Plaintiff On August 17, 2017, D mental RFC. (AR 534 37.) Dr. Acedo diagnosed Plaintiff with depression and s in

understanding and remembering very short and simple instructions; had limitations that would preclude performance for five percent of the day in remembering procedures, making simple decisions, interacting appropriately with the public, asking simple questions, maintaining socially appropriate behavior, responding appropriately to changes, being aware of normal hazards, and setting realistic goals; had limitations that would preclude performance for ten percent of the day in understanding and carrying out detailed instructions, maintaining attention for extended periods of time, performing activities within a schedule, working in coordination with others, and getting along with coworkers; and had limitations that would preclude performance for fifteen percent or more of

the day in traveling in unfamiliar places, completing a normal workday without interruptions from psychologically based symptoms, and sustaining an ordinary routine without special supervision. (AR 534 36.) Dr. Acedo opined Plaintiff would be off task thirty percent or more of the day and absent from work five days or more per month. (AR 536.)

3. Mary Lewis, Psy.D. On January 30, 2015, psychologist Mary Lewis completed a medical source statement after examining Plaintiff. (AR 336 341.) and Dr. Lewis stated that Plaint Dr. Lewis opined that Plaintiff had

no significant limitation in any area of mental functioning, including her ability to understand and remember short and simple and detailed instructions, maintain concentration, accept instructions, sustain an ordinary routine, complete a normal workday, interact with coworkers, and deal with changes in the work setting. (AR 340 41.)

4. State Agency Physicians On February 20, 2015, Hillary Weiss, Ph.D., a Disability Determinations Service medical consultant, assessed the severity of impairments and found that Plaintiff had mild restriction of activities of daily living, moderate difficulties in maintaining social functioning, mild difficulties in maintaining concentration, persistence or pace, and had the severe impairment of affective disorders. (AR 73 mental residual functional capacity (RFC), 3

3 RFC is an assessment of an individual s ability to do sustained work-related physical and mental activities in a work setting on a regular and continuing basis of 8 hours a day, for 5 days a week, or an equivalent work schedule. TITLES II & XVI: ASSESSING RESIDUAL FUNCTIONAL CAPACITY IN INITIAL CLAIMS, Social Security Ruling (SSR) 96-8P (S.S.A. July 2, 1996). The RFC assessment considers only functional limitations and restrictions that result from an individual s medically determinable impairment or combination of impairments. Id. In determining a claimant s RFC, an ALJ must consider all relevant evidence in the record including, inter alia, medical records, lay Dr. Weiss opined that Plaintiff was moderately limited in her ability to maintain concentration for extended periods of time, complete a normal workday and workweek without interruptions from psychologically based symptoms, interact appropriately with the general public, and respond appropriately to changes in the work setting. (AR 75 76.) Dr. Weiss opined that Plaintiff had no limitations in all other areas of mental functioning. (See AR 75 76.)

Upon reconsideration, on July 16, 2015, another Disability Determinations Service medical consultant, Anna M. Franco, Ph.D., affirmed Dr. Weiss the severity of impairments and her mental RFC. (AR 105 09.) B. Administrative Proceedings

The Commissioner denied Plaintiff s application for benefits initially on February 23, 2015, and again on reconsideration on July 16, 2015. (AR 128 132, 135 39.) On January 23, 2016, Plaintiff requested a hearing before an Administrative Law Judge (ALJ). (AR 140.)

On September 5, 2017, Plaintiff appeared with counsel and testified before an ALJ as to her alleged disabling conditions. (AR 31 65.) Plaintiff testified that she worked as a home attendant from approximately 2002 2014, assisting disabled individuals by bathing and feeding them and taking them to the doctor. (AR 38 39.) Plaintiff stated that she stopped working in 2014 (AR 40.) Plaintiff testified that (AR 42.) Plaintiff stated . (AR 42.)

Plaintiff stated her current daily routine includes taking her psychiatric medications, staying in her room about half the day, getting up to shower and smoke a cigarette, and painting the lampshades as a hobby. (AR 43 44, 51.) Plaintiff also testified that she spends a fair amount of time with her boyfriend, grandchildren, and children, and walks for exercise. (See AR 45, 49 50.)

A Vocational Expert (VE) testified at the hearing that Plaintiff had past work as a home attendant, Dictionary of Occupational Titles (DOT) code 354.377-014, which was medium work

evidence, and the effects of symptoms, including pain, that are reasonably attributed to a medically determinable impairment. Robbins v. Soc. Sec. Admin., 466 F.3d 880, 883 (9th Cir. 2006). with a specific vocational preparation (SVP) 4

of 3. (AR 62.) The ALJ asked the VE to consider a person of Plaintiff s age, education, and with her work background. (AR 62.) The VE was also to assume this person was capable of work at all exertional levels, capable of performing jobs of a non- complex nature requiring the performance of nothing beyond simple, repetitive tasks, and could have occasional non-collaborative contact with coworkers and occasional contact with the general public. (AR 62.) The VE testified that such a person could not perform Plaintiff s past relevant work. (AR 62.) The VE testified such a person could perform other jobs in the national economy, however, including: industrial cleaner, DOT code 381.687-018, which is medium work with a SVP of 2 with approximately 1,827,986 jobs available in the national economy; meat trimmer, DOT code 525.687-054, which is medium work with a SVP of 2 with approximately 54,669 jobs available; and equipment cleaner, DOT code 599.684.010, which is heavy work with a SVP of 2 with approximately 45,810 jobs available. (AR 62.)

In a second hypothetical, the ALJ asked the VE to consider an individual with the limitations described in the first hypothetical except that the person would be capable of frequently responding appropriately to direct supervision and would be capable of adapting to change on an occasional basis. (AR 63.) The VE testified, based on her expertise, that such a person could not perform . (AR 63.) In a third hypothetical, the ALJ asked the VE to consider an individual with the limitations in the first hypothetical except that the individual was going to be off-task about fifteen percent of the time. (AR 64.) The VE testified that such an individual could not perform any work. (AR 64.) C. The ALJ s Decision

In a decision dated February 14, 2018, the ALJ found that Plaintiff was not disabled, as defined by the Act. (AR 15 26.) The ALJ conducted the five-step disability analysis set forth in 20 C.F.R. § 404.1520.

(AR 17 26.) The ALJ decided that Plaintiff had not engaged in substantial gainful activity since June 20, 2014, the alleged onset date (step one). (AR 17.) At step two, the 4 Specific vocational preparation (SVP), as defined in DOT, App. C, is the amount of lapsed time required by a typical worker to learn the techniques, acquire the information, and develop the facility needed for average performance in a specific job-worker situation. DOT, Appendix C Components of the Definition Trailer, 1991 WL 688702 (1991). Jobs in the DOT are assigned SVP levels ranging from 1 (the lowest level short demonstration only) to 9 (the highest level over 10 years of preparation). Id. ALJ found that Plaintiff had severe impairments of depressive disorder and anxiety disorder. (AR 17.) The ALJ found that Plaintiff did not have an impairment or combination of impairments that met or medically equaled one of the Listings (step three). (AR 18.) The ALJ further found at step three that Plaintiff had a mild limitation in understanding, remembering, or applying information, a moderate limitation in interacting with others, a moderate limitation in concentrating, persistence, and maintaining pace, and no limitation in adapting or managing herself. (AR 18.)

The ALJ assessed Plaintiff s RFC and applied the RFC assessment at steps four and five. See 20 C.F.R. § 404.1520(a)(4) (Before we go from step three to step four, we assess your residual functional capacity We use this residual functional capacity assessment at both step four and step five when we evaluate your claim at these steps.). The ALJ determined that Plaintiff retained the RFC:

to perform a full range of work at all exertional levels but with the following nonexertional limitations: The individual is capable of performing jobs of a non- complex nature requiring the performance of no more than simple, repetitive tasks, and is able to maintain occasional contact with co-workers and members of the general public. (AR 19.) Although the ALJ recognized that Plaintiff s impairments could reasonably be expected to cause the alleged symptoms[,] he rejected Plaintiff s subjective testimony as not entirely consistent with the medical evidence and other evidence in the record[.] (AR 20.) At step five, the ALJ found that Plaintiff could not perform any past relevant work but that jobs exist in significant numbers in the national economy that Plaintiff could perform. (AR 24 25.)

Plaintiff sought review of this decision before the Appeals Council, which denied review on December 20, 2018. (AR 1 6.) Therefore, the ALJ s decision became the final decision of the Commissioner. 20 C.F.R. § 404.981.

III. LEGAL STANDARD A. Applicable Law

An individual is considered disabled for purposes of disability benefits if he or she is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. 42 U.S.C. § 423(d)(1)(A). However, [a]n individual shall be determined to be under a disability only if [her] physical or mental impairment or impairments are of such severity that [s]he is not only unable to do [her] previous work but cannot,

considering [her] age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy. Id. § 423(d)(2)(A).

The Social Security Regulations set out a five-step sequential process for determining whether a claimant is disabled within the meaning of the Social Security Act. Tackett v. Apfel, 180 F.3d 1094, 1098 (9th Cir. 1999) (citing 20 C.F.R. § 404.1520). The Ninth Circuit has provided the following description of the sequential evaluation analysis:

In step one, the ALJ determines whether a claimant is currently engaged in substantial gainful activity. If so, the claimant is not disabled. If not, the ALJ proceeds to step two and evaluates whether the claimant has a medically severe impairment or combination of impairments. If not, the claimant is not disabled. If so, the ALJ proceeds to step three and considers whether the impairment or combination of impairments meets or equals a listed impairment under 20 C.F.R. pt. 404, subpt. P, [a]pp. 1. If so, the claimant is automatically presumed disabled. If not, the ALJ proceeds to step four and assesses whether the claimant is capable of performing her past relevant work. If so, the claimant is not disabled. If not, the ALJ proceeds to step five and examines whether the claimant has the [RFC] . . . to perform any other substantial gainful activity in the national economy. If so, the claimant is not disabled. If not, the claimant is disabled. Burch v. Barnhart, 400 F.3d 676, 679 (9th Cir. 2005). If a claimant is found to be disabled or not disabled at any step in the sequence, there is no need to consider subsequent steps. Tackett, 180 F.3d at 1098 (citing 20 C.F.R. § 404.1520).

The claimant carries the initial burden of proving a disability in steps one through four of the analysis. Burch, 400 F.3d at 679 (citing Swenson v. Sullivan, 876 F.2d 683, 687 (9th Cir. 1989)). However, if a claimant establishes an inability to continue her past work, the burden shifts to the Commissioner in step five to show that the claimant can perform other substantial gainful work. Id. (citing Swenson, 876 F.2d at 687). B. Scope of Review

This court may set aside the Commissioner s denial of disability insurance benefits [only] when the ALJ s findings are based on legal error or are not supported by substantial evidence in the record as a whole. Tackett, 180 F.3d at 1097 (citation omitted). Substantial evidence is defined as being more than a mere scintilla, but less than a preponderance. Edlund v. Massanari, 253 F.3d 1152, 1156 (9th Cir. 2001) (citing Tackett, 180 F.3d at 1098). Put another way, substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. Id. (citing Richardson v. Perales, 402 U.S. 389, 401 (1971)).

This is a highly deferential standard of review Valentine v. Comm r of Soc. Sec. Admin., 574 F.3d 685, 690 (9th Cir. 2009). The ALJ s findings will be upheld if supported by inferences reasonably drawn from the record. Tommasetti v. Astrue, 533 F.3d 1035, 1038 (9th Cir. 2008) (citation omitted). Additionally, [t]he court will uphold the ALJ s conclusion when the evidence is susceptible to more than one rational interpretation. Id.; see, e.g., Edlund, 253 F.3d at 1156 (citations omitted) (If the evidence is susceptible to more than one rational interpretation, the court may not substitute its

judgment for that of the Commissioner.).

Nonetheless, the Commissioner s decision cannot be affirmed simply by isolating a specific quantum of supporting evidence. Tackett, 180 F.3d at 1098 (quoting Sousa v. Callahan, 143 F.3d 1240, 1243 (9th Cir. 1998)). Rather, a court must consider the record as a whole, weighing both evidence that supports and evidence that detracts from the [Commissioner s] conclusion. Id. (quoting Penny v. Sullivan, 2 F.3d 953, 956 (9th Cir. 1993)).

Finally, courts may not reverse an ALJ s decision on account of an error that is harmless. Molina v. Astrue, 674 F.3d 1104, 1111 (9th Cir. 2012) (citing Stout v. Comm r, Soc. Sec. Admin., 454 F.3d 1050, 1055 56 (9th Cir. 2006)). Harmless error exists when it is clear from the record that the ALJ s error was inconsequential to the ultimate nondisability determination. Tommasetti, 533 F.3d at 1038 (quoting Robbins v. Soc. Sec. Admin., 466 F.3d 880, 885 (9th Cir. 2006)). [T]he burden of showing that an error is harmful normally falls upon the party attacking the agency s determination. Shinseki v. Sanders, 556 U.S. 396, 409 (2009) (citations omitted).

IV. DISCUSSION Plaintiff contends that the ALJ physician Dr. Acedo. (See Doc. 14 at 9 16.) The Commissioner responds that the ALJ properly evaluated . (Doc. 17 at 4 8.) For the reasons stated below, the Court agrees

A. The ALJ Properly Evaluated 1. Legal Standard The ALJ must consider and evaluate every medical opinion of record. See 20 C.F.R. § 404.1527(b) and (c) (applying to claims filed before March 27, 2017); Mora v. Berryhill, No. 1:16 cv 01279 SKO, 2018 WL 636923, at *10 (E.D. Cal. Jan. 31, 2018). In doing so, the ALJ Mora, 2018 WL 636923, at *10.

Cases in this circuit distinguish between three types of medical opinions: (1) those given by a physician who treated the claimant (treating physician); (2) those given by a physician who examined but did not treat the claimant (examining physician); and (3) those given by a physician who neither examined nor treated the claimant (non-examining physician). Fatheree v. Colvin, No. 1:13 cv 01577 SKO, 2015 WL 1201669, at *13 (E.D. Cal. Mar. 16, 2015). Generally, a treating s opinion carries more weight th s, and an examining physician s opinion carries more we s Holohan v. Massanari, 246 F.3d 1195, 1202 (9th Cir. 2001) (citations omitted); see also Orn v. Astrue, 495 F.3d 625, 631 (9th Cir. 2007) over non-treating physicia 20 C.F.R. § 404.1527)). The opinions of treating physicians

employed to cure and thus have a greater opportunity to know and observe the patient as an

Smolen v. Chater, 80 F.3d 1273, 1285 (9th Cir. 1996) (citations omitted). To evaluate whether an ALJ properly rejected a medical opinion, in addition to considering its source, the court considers whether (1) contradictory opinions are in the record; and (2) clinical findings support the opinions. An ALJ may reject an uncontradicted opinion of a treating or Lester v. Chater, 81 F.3d 821, 830 31 (9th Cir. 1995). In contrast, a contradicted opinion of a treating or examining Trevizo v. Berryhill, 871

F.3d 664, 675 (9th Cir. 2017) (citing Ryan, 528 F.3d at 1198);

see also Lester, 81 F.3d at 830 31. thorough summary of the facts and conflicting clinical evidence, stating his interpretation thereof,

Magallanes v. Bowen, 881 F.2d 747, 751 (9th Cir. 1989). While a treating may resolve the conflict. Andrews v. Shalala, 53 F.3d 1035, 1041 (9th Cir. 1995) (citing

Magallanes, 881 F.2d at 751). The regulations require the ALJ to weigh the contradicted treating physician opinion, Edlund v. Massanari, 253 F.3d 1152, 1157 (9th Cir. 2001), 5

except that the ALJ in any event need not give it any weight if it is conclusory and supported by minimal clinical findings. Meanel v. Apfel minimally supported opinion rejected); see also Magallanes, 881 F.2d at 751. The opinion of a non-

examining professional, by itself, is insufficient to reject the opinion of a treating or examining professional. Lester, 81 F.3d at 831.

2. Analysis Acedo was Plaintiff s treating physician. (See, e.g., Doc. 14 at 6.) If . . . a treating [physician s] opinion . . . is well-supported by medically 5 The factors include: (1) length of the treatment relationship; (2) frequency of examination; (3) nature and extent of the treatment relationship; (4) supportability of diagnosis; (5) consistency; and (6) specialization. 20 C.F.R. § 404.1527. acceptable clinical and laboratory diagnostic techniques and is not inconsistent with the other substantial evidence in [the] record, [the Commissioner] will give it controlling weight. 20 C.F.R. § 404.1527(c)(2); cf. Reddick, 157 F.3d at 725 (Where the treating doctor s opinion is not contradicted by another doctor, it may be rejected only for clear and convincing reasons supported by substantial evidence in the record. (citation omitted)). If there is substantial evidence in the record contradicting the opinion of the treating physician, the opinion of the treating physician is no longer entitled to controlling weight. Orn, 495 F.3d at 632 (quoting 20 C.F.R. § 404.1527(d)(2)).

If a treating physician s opinion is not given controlling weight because it is not well- supported or because it is inconsistent with other substantial evidence in the record, the [Commissioner] considers specified factors in determining the weight it will be given. Id. at 631. These factors include (1) the [l]ength of the treatment relationship and the frequency of examination; (2) the [n]ature and extent of the treatment relationship; (3) the [s]upportability of the opinion; (4) the [c]onsistency of the opinion with the record as a whole; (5) whether the opinion is from a specialist about medical issues related to his or her area of specialty; and (6) any other factors [the claimant] or others bring to [the ALJ s] attention, or of which [the ALJ is] aware, which tend to support or contradict the opinion. 20 C.F.R. § 404.1527(c)(2) (6).

Further, [e]ven if the treating doctor s opinion is contradicted by another doctor, the ALJ may not

reject this opinion without providing specific and legitimate reasons supported by substantial evidence in the record. Reddick, 157 F.3d at 725 (quoting Lester, 81 F.3d at 830). See also Trevizo v. Berryhill, 871 F.3d 664, 675 (9th Cir. 2017) (citing Ryan v. Comm r of Soc. Sec., 528 F.3d 1194, 1198 (9th Cir. 2008)). This can be done by setting out a detailed and thorough summary of the facts and conflicting clinical evidence, stating his interpretation thereof, and making findings. Id. (citing Magallanes v. Bowen, 881 F.2d 747, 751 (9th Cir. 1989)); see, e.g., Chaudhry v. Astrue, 688 F.3d 661, 671 (9th Cir. 2012) (The ALJ need not accept the opinion of any physician, including a treating physician, if that opinion is brief, conclusory, and inadequately supported by clinical findings. (quoting Bray v. Comm r of Soc. Sec. Admin., 554 F.3d 1219, 1228 (9th Cir. 2009))); Morgan v. Comm r of Soc. Sec. Admin., 169 F.3d 595, 600 (9th Cir. 1999) (Opinions of a nonexamining, testifying medical advisor may serve as substantial evidence when they are supported by other evidence in the record and are consistent with it. (citing Andrews v. Shalala, 53 F.3d at 1041); Matney on Behalf of Matney v. Sullivan, 981 F.2d 1016, 1020 (9th Cir. 1992) (noting that inconsistencies and ambiguities in a treating physician s opinion represent specific and legitimate reasons for rejecting the opinion). The ALJ must do more than offer his conclusions. Reddick, 157 F.3d at 725. He must set forth his own interpretations and explain why they, rather than the doctors , are correct. Id. (citing Embrey v. Bowen, 849 F.2d 418, 421 22 (9th Cir. 1988)).

The record indicates that Dr. Acedo treated Plaintiff from approximately 2012 until at least 2017 (See AR 534 37.) On August 17, 2017, Dr. Acedo submitted a medical source statement on behalf of Plaintiff, in which he opined that Plaintiff had certain functional limitations, and that in , she would be off task thirty percent or more of the day and absent from work at least five days per month. (AR 534 37.)

In weighing Dr. Acedo In August 2017, Dr. Acedo provided a mental residual functional capacity. He diagnosed major depressive disorder. He opined that [Plaintiff] was likely to be off task more than 30 percent, likely to be absent from work five days or more, likely to be unable to complete an eight-hour workday five days or more, and a GAF of 30 to 40, highest in past year 50 []. I assign little weight to this assessment. [Plaintiff] was not impaired to the level opined by this provider. [Plaintiff] interacted with her family, grandchildren, and boyfriend, and reported exercising []. The opinion, while consistent with limitations in regards to concentration and task limitation, was overstated in respect to social functioning and disruption caused by symptoms in respect to functioning. (AR 23.)

the medical evidence and . (AR 23.) Specifically, the ALJ discounted Dr. as it related to social functioning symptoms, but otherwise credited the opinion. (See AR 23.) The ALJ adopted the findings of the

state agency physicians, as their opinions were consistent with the medical evidence as a whole. (See AR 23 24.) Although not specifically noted by the ALJ, Dr. opinion was contradicted by the opinions of the state agency physicians and the consultative examiner Dr. Lewis. 6

Thus, the assigning little weight to part of Dr. opinion. Trevizo, 871 F.3d at 675 (citing Ryan, 528

F.3d at 1198); see also Lester, 81 F.3d at 830. Here, the ALJ properly gave little weight to Dr. opinion functioning and the disruption caused by her symptoms. (See AR 23.) First, Dr. assessment as to of her symptoms on her work ability was inconsistent with the medical evidence, including the assessments of both state agency physicians and the consultative examiner. (Compare AR 534 37 with AR 75 76, 105-109, 336 341.) For example, Dr. Acedo opined that Plaintiff would be off task thirty percent or more of the day and absent from work five days or more per month due to significant limitations in functioning, while the state agency physicians both opined that Plaintiff had no significant limitation in her ability to maintain regular attendance at work and perform activities within a schedule, and had only moderate limitation in her ability to complete a normal workday and workweek without interruptions from psychologically based symptoms. 7

(See AR 75 76, 107 108.) Opinions of non-examining

record and are Andrews, 53 F.3d at 1041; Tonapetyan, 242 F.3d at 1149. The opinions of the state agency physicians are consistent with and supported by the medical evidence

6 7 Plaintiff discusses at length the , (Doc. 14 at 11 15), and takes issue with Dr. workweek, she meant that Pl or inconsistent in finding and finds that the state agency physi , are consistent and supported

by the evidence in the record. See Hoopai v. Astrue mental limitation, including a limitation on the ability to maintain concentration, persistence and pace, does not require additional limitation in RFC). ead a set of internal agency guidelines. See Warre v. Commissioner of Social Sec. Admin., 439 F.3d 1001, 1005 (9th Cir. 2006); Lowry v. Barnhart, 329 F.3d 1019, 1023 (9th Cir. 2003). in the record, . (See, e.g., AR 340.)

See AR 23.) Specifically, the ALJ noted that

Plaintiff testified she interacts with her family, grandchildren, and boyfriend, and exercises. (See AR 23.) For example, Plaintiff testified that she goes out to eat with her boyfriend, goes to her occasions. (See AR 49 50.) partially

discount See, e.g., Matsukado v. Berryhill, CIV. NO. 19-00045 LEK-KJM,

see also Rollins v. Massanari, 261 F.3d 853, 856 (9th Cir. 2001); Morgan v. Commissioner of Social Sec. Admin., 169 F.3d 595, 600 602 (9th Cir. 1998). The Court also very little information as to what clinical findings supported the opinion, or why any particular

section on the checklist was marked. (See AR 534 opinion that is Gomez v. Berryhill, No. 1:17-cv-01035-JLT, 2019 WL 852118, at *8 (E.D. Cal. Feb. 22, 2019) (citation omitted); see also Crane v.

Shalala, 76 F.3d 251 . check- Batson v.

, 359 F.3d 1190, 1195 (9th Cir. 2003). Thus, the ALJ properly rejected of a checklist with very little accompanying explanation.

Finally, to the extent Plaintiff contends the ALJ improperly rejected any ultimate opinion of Dr. Acedo that Plaintiff was unable to work, that is a conclusion reserved for the Commissioner. See Murillo v. Colvin, No. CV 12-3402-MAN, 2013 WL 5434168, at *4 (C.D. Cal. Sept. 27, 2013) Soroka v.

Berryhill, No. 1:17-CV-01571- conclusory opinion that a claimant is disabled is entitled to little weight since the Commissioner

Calhoun v. Berryhill

Cir. 2018)). In sum, evidence is susceptible to more than one rational interpretati conclusion. See Andrews, 53 F.3d at 1041; Magallanes, 881 F.2d at 750. Accordingly, the Court

IV. CONCLUSION AND ORDER

AFFIRMED. The Clerk of this Court is DIRECTED to enter judgment in favor of Defendant

Andrew Saul, Commissioner of Social Security, and against Plaintiff.

IT IS SO ORDERED. Dated: June 22, 2020 /s/ Sheila K. Oberto . UNITED STATES MAGISTRATE JUDGE