

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 22 2022

FOR THE NINTH CIRCUIT

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

CATHY E. LANDEROS,

No. 21-56363

Plaintiff-Appellant,

D.C. No. 2:20-cv-06348-JPR

v.

MEMORANDUM*

KILOLO KIJAKAZI, Acting Commissioner
of Social Security,

Defendant-Appellee.

Appeal from the United States District Court
for the Central District of California
Jean Rosenbluth, Magistrate Judge, Presiding

Submitted November 17, 2022**
Pasadena, California

Before: TASHIMA and NGUYEN, Circuit Judges, and FITZWATER,** District
Judge.

Appellant Cathy E. Landeros timely appeals the district court's judgment

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

affirming the Commissioner of Social Security’s denial of disability benefits. We have jurisdiction under 28 U.S.C. § 1291 and 42 U.S.C. § 405(g). We affirm.

The parties are familiar with the facts of the case, so we do not recite them here. We review the denial of benefits de novo and must uphold the ALJ’s decision if it is supported by substantial evidence. *Burch v. Barnhart*, 400 F.3d 676, 679 (9th Cir. 2005).

An ALJ follows a five-step sequential evaluation process in assessing whether a claimant is disabled. *Lester v. Chater*, 81 F.3d 821, 828 n.5 (9th Cir. 1995), *as amended* (Apr. 9, 1996) (citing 20 C.F.R. § 404.1520). At step two, the ALJ considers whether the claimant has a “severe impairment”—if the ALJ finds the claimant has no severe impairments, then the claimant is not disabled. *Id.* If the ALJ finds the claimant has a “severe” impairment, the ALJ continues the analysis and ultimately evaluates at step five whether the claimant has the residual functional capacity to perform any work, in which case the claimant is not disabled. *Id.*

Landeros argues that the ALJ erred in not finding her fibromyalgia to be “severe” at step two, and that this error undermined the ALJ’s conclusion that she retained the residual functional capacity to perform light work with some non-exertional limitations and therefore was not disabled.

Even assuming the ALJ erred at step two, any error was harmless. “[A]n

ALJ's error is harmless where it is inconsequential to the ultimate nondisability determination." *Molina v. Astrue*, 674 F.3d 1104, 1115 (9th Cir. 2012) (internal quotations omitted), *superseded on other grounds by* 20 C.F.R. § 404.1502(a). "In this context, we have said that an error is harmless so long as there remains substantial evidence supporting the ALJ's decision and the error does not negate the validity of the ALJ's ultimate conclusion." *Id.* (internal quotations omitted).

Although the ALJ did not find Landeros's fibromyalgia to be "severe," he found that she had severe impairments of bilateral carpal tunnel syndrome, anxiety, and depression, and proceeded through the rest of the five steps of analysis. The ALJ then accounted for Landeros's limitations, including those caused by fibromyalgia, by restricting Landeros to a reduced range of noncomplex routine work at the light exertion level "in consideration of [Landeros's] history of some upper extremity impairment." This restriction was supported by the evidence in the record—including the evidence Landeros points to regarding her chronic pain and fibromyalgia.

Landeros argues that medical notes from Dr. Evans and Dr. Park suggest greater limitations than the ALJ found, but neither of the notes from Dr. Evans or Dr. Park identify how or to what extent any specific work activity would be affected. Landeros does not point to, and the record does not support a finding of, any functional limitations that the ALJ should have considered and did not. *See*

Burch, 400 F.3d at 683. Accordingly, the ALJ’s determination was supported by substantial evidence and any error in not finding Landeros’s fibromyalgia “severe” did not negate the validity of the ALJ’s conclusion at step five of the analysis. *See Molina*, 674 F.3d at 1115.

AFFIRMED.