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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

RICHARD P. HANRAHAN,	)	Case No. CV 09-3148-JEM
	)	
Plaintiff,	)	
	)	MEMORANDUM OPINION AND ORDER
v.	)	AFFIRMING DECISION OF
	)	COMMISSIONER
MICHAEL J. ASTRUE,	)	
Commissioner of Social Security,	)	
	)	
Defendant.	)	
_____	)	

**PROCEEDINGS**

On May 28, 2009, Richard P. Hanrahan (“Plaintiff” or “Claimant” or “Hanrahan”) filed a complaint seeking review of the decision by the Commissioner of Social Security (“Commissioner”) denying Plaintiff’s application for both Social Security disability insurance benefits and Supplemental Social Security income. The Commissioner filed an Answer on July 27, 2009. On November 23, 2009, the parties filed a Joint Stipulation (“JS”).

Pursuant to 28 U.S.C. § 636(c), both parties consented to proceed before the Magistrate Judge. The matter is now ready for decision. After reviewing the pleadings, transcripts, and administrative record (“AR”), the Court concludes that the Commissioner’s decision should be affirmed and the case dismissed with prejudice.

1 **BACKGROUND**

2 Plaintiff is a 47 year old male who was determined to have the medically  
3 determinable severe impairment of mild carpal tunnel syndrome. (AR 14.) Plaintiff has not  
4 engaged in substantial gainful activity since March 11, 2005, the alleged onset date. (AR  
5 14.)

6 Plaintiff’s claim was denied initially on December 14, 2006, and on reconsideration on  
7 April 13, 2007. (AR 12.) He filed a timely request for hearing, which was held before  
8 Administrative Law Judge (“ALJ”) Eric Benham on October 9, 2007, in Palmdale, California.  
9 (AR 12.) Claimant appeared and testified. (AR 12.) Vocational expert Randi Langford-  
10 Hetrick also testified. (AR 12.)

11 The ALJ issued an unfavorable decision on May 27, 2008. (AR 12-19.) The ALJ  
12 determined that Plaintiff had the residual functional capacity (“RFC”)<sup>1</sup> to perform light work,  
13 except that he can no more than occasionally perform postural changes, has no right eye  
14 vision, and can no more than frequently handle or finger with his right hand. (AR 15.) The  
15 ALJ found that Plaintiff could not perform his prior work in air-conditioning and heating (AR  
16 17) but could perform other jobs in the national economy, and therefore was not disabled  
17 within the meaning of the Social Security Act. (AR 17-18.) The ALJ also determined that  
18 Claimant has a limited education but is able to communicate in English. (AR 17.)

19 **DISPUTED ISSUES**

20 As reflected in the Joint Stipulation, the sole disputed issue that Plaintiff is raising as  
21 a ground for reversal is as follows:

- 22 1. Whether the ALJ properly considered the presence of a manipulative impairment.  
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26 \_\_\_\_\_  
27 <sup>1</sup> Residual functional capacity is what one “can still do despite [his or her] limitations”  
28 and represents an assessment “based on all the relevant evidence.” 20 C.F.R. §§  
404.1545(a)(1), 416.945(a)(1).

1 **STANDARD OF REVIEW**

2 Under 42 U.S.C. § 405(g), this Court reviews the ALJ’s decision to determine  
3 whether the ALJ’s findings are supported by substantial evidence and whether the proper  
4 legal standards were applied. DeLorme v. Sullivan, 924 F.2d 841, 846 (9th Cir. 1991).  
5 Substantial evidence means “more than a mere scintilla’ but less than a preponderance.”  
6 Saelee v. Chater, 94 F.3d 520, 521-22 (9th Cir. 1996) (quoting Richardson v. Perales, 402  
7 U.S. 389, 401 (1971)).

8 Substantial evidence is “such relevant evidence as a reasonable mind might accept  
9 as adequate to support a conclusion.” Richardson, 402 U.S. at 401 (internal quotations and  
10 citations omitted). This Court must review the record as a whole and consider adverse as  
11 well as supporting evidence. Robbins v. Soc. Sec. Admin., 466 F.3d 880, 882 (9th Cir.  
12 2006). Where evidence is susceptible to more than one rational interpretation, the ALJ’s  
13 decision must be upheld. Morgan v. Comm’r, 169 F.3d 595, 599 (9th Cir. 1999). “However,  
14 a reviewing court must consider the entire record as a whole and may not affirm simply by  
15 isolating a ‘specific quantum of supporting evidence.’” Robbins, 466 F.3d at 882 (quoting  
16 Hammock v. Bowen, 879 F.2d 498, 501 (9th Cir. 1989)); see also Orn v. Astrue, 495 F.3d  
17 625, 630 (9th Cir. 2007).

18 **SEQUENTIAL EVALUATION**

19 The Social Security Act defines disability as the “inability to engage in any substantial  
20 gainful activity by reason of any medically determinable physical or mental impairment  
21 which can be expected to result in death or . . . can be expected to last for a continuous  
22 period of not less than 12 months.” 42 U.S.C. §§ 423(d)(1)(A), 1382c(a)(3)(A). The  
23 Commissioner has established a five-step sequential process to determine whether a  
24 claimant is disabled. 20 C.F.R. §§ 404.1520, 416.920.

25 The first step is to determine whether the claimant is presently engaging in  
26 substantially gainful activity. Parra v. Astrue, 481 F.3d 742, 746 (9th Cir. 2007). If the  
27 claimant is engaging in substantially gainful activity, disability benefits will be denied.  
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1 Bowen v. Yuckert, 482 U.S. 137, 140 (1987). Second, the ALJ must determine whether the  
2 claimant has a severe impairment or combination of impairments. Parra, 481 F.3d at 746.  
3 Third, the ALJ must determine whether the impairment is listed, or equivalent to an  
4 impairment listed, in Appendix I of the regulations. Id. If the impediment meets or equals  
5 one of the listed impairments, the claimant is presumptively disabled. Bowen, 482 U.S. at  
6 141. Fourth, the ALJ must determine whether the impairment prevents the claimant from  
7 doing past relevant work. Pinto v. Massanari, 249 F.3d 840, 844-45 (9th Cir. 2001). Before  
8 making the step four determination, the ALJ first must determine the claimant's RFC. 20  
9 C.F.R. § 416.920(e). The RFC must consider all of the claimant's impairments, including  
10 those that are not severe. 20 C.F.R. §§ 416.920(e), 416.945(a)(2); Social Security Ruling  
11 ("SSR") 96-8p. If the claimant cannot perform his or her past relevant work, the ALJ  
12 proceeds to the fifth step and must determine whether the impairment prevents the claimant  
13 from performing any other substantial gainful activity. Moore v. Apfel, 216 F.3d 864, 869  
14 (9th Cir. 2000).

15 The claimant bears the burden of proving steps one through four, consistent with the  
16 general rule that at all times the burden is on the claimant to establish his or her entitlement  
17 to benefits. Parra, 481 F.3d at 746. Once this prima facie case is established by the  
18 claimant, the burden shifts to the Commissioner to show that the claimant may perform  
19 other gainful activity. Lounsbury v. Barnhart, 468 F.3d 1111, 1114 (9th Cir. 2006). If the  
20 Commissioner cannot meet this burden, then the claimant is disabled and entitled to  
21 benefits. Id.

22 In this case, the ALJ concluded at step five of the sequential process that Plaintiff can  
23 perform other jobs in the national economy (AR 17-18) and therefore is not disabled within  
24 the meaning of the Social Security Act. (AR 18.)

## 25 **DISCUSSION**

26 At the ALJ hearing, Plaintiff alleged right eye blindness, right and left elbow pain,  
27 carpal tunnel syndrome, back pain, neck pain, shoulder pain, and depression. (AR 15-17.)  
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1 The ALJ determined that Plaintiff's carpal tunnel syndrome was his only medically  
2 determinable severe impairment.<sup>2</sup> (AR 14.)

3 Before this Court, Plaintiff alleges a disabling manipulative impairment. He  
4 challenges the ALJ's rejection of the opinion of consulting orthopedist Brian Ahangar, M.D.,  
5 who concluded that Plaintiff had the following manipulative limitations: "The Claimant should  
6 limit reaching, handling, feeling, grasping, and fingering to only occasionally on the left and  
7 less than occasionally on the right." (AR 185.) On the basis of these limitations, Plaintiff  
8 alleges an inability to use his hands for significant activity. (JS 13.)

9 The ALJ's rejection of Dr. Ahangar's testimony, however, is supported by substantial  
10 evidence and free of legal error. The ALJ also properly discounted Plaintiff's credibility. The  
11 ALJ met the Commissioner's burden at step five of the sequential process to establish that  
12 jobs exist in the national economy that Plaintiff can perform.

13 **A. The ALJ Properly Rejected The Opinion**  
14 **Of The Examining Physician**

15 On November 5, 2006, consulting examiner Dr. Ahangar conducted a comprehensive  
16 orthopedic evaluation at the request of the state agency acting on behalf of the  
17 Commissioner. (AR 181; JS 5.) Dr. Ahangar's diagnoses included right eye blindness,  
18 bilateral elbow pain but with normal range of motion and strength and right carpal tunnel  
19 syndrome with weakness of grip. (AR 184.) His functional assessment was that the hours  
20 Claimant could be expected to sit, stand or walk in an eight hour day was unrestricted. (AR  
21 185.) He could lift and carry 10 pounds frequently and 20 pounds occasionally on the left  
22 side and 10 pounds frequently and occasionally on the right side. (AR 185.) Dr. Ahangar  
23 found no postural limitations but did find manipulative limitations on both left and right as to  
24 reaching, handling, feeling, grasping, and fingering. (AR 185.)

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26 <sup>2</sup> Plaintiff's treating physician Dr. Rafael Gomez examined Plaintiff's eye injury in  
27 2006. (AR 208-213.) He opined that Claimant could perform medium exertion work  
28 notwithstanding the loss of right eye vision. (AR 16.) Plaintiff does not claim that the loss of  
right eye vision renders him unable to work.

1 The ALJ gave little weight to Dr. Ahangar's assessment of Plaintiff's manipulative  
2 limitations. An ALJ may reject an examining physician's uncontradicted medical opinion  
3 only for clear and convincing reasons. Carmickle v. Comm'r, Social Sec. Admin., 533 F.3d  
4 1155, 1164 (9th Cir. 2008). "Where such an opinion is contradicted, however, it may be  
5 rejected for specific and legitimate reasons that are supported by substantial evidence in the  
6 record." Id. (internal quotations and citation omitted). In this case, Dr. Ahangar's  
7 manipulative assessment was contradicted by other medical evidence and the ALJ properly  
8 rejected Dr. Ahangar's opinion with specific and legitimate reasons supported by substantial  
9 evidence.

10 Claimant's treating physician Dr. Gonzalez opined that Plaintiff could perform  
11 medium exertion work. (AR 16, 211-12.) Plaintiff contends that Dr. Gonzalez's examination  
12 only concerned Claimant's eye, but Dr. Gonzalez completed a functional capacity  
13 assessment that clearly was not limited to the eye. (AR 211-12.) In any event, on  
14 November 8, 2006, three days after Dr. Ahangar's manipulative limitations assessment, Dr.  
15 Ravikumar conducted a nerve conduction or electromyography ("EMG") test in response to  
16 Plaintiff's complaints of tingling and numbness in the right hand. (AR 179-180.) The result  
17 was a "normal" EMG and an impression of "[e]arly, mild, right carpal tunnel syndrome." (AR  
18 179-180.) The referring orthopedist Dr. Sirajullah accepted these findings, observing that  
19 the EMG was "ok" and diagnosing mild carpal tunnel syndrome. (AR 153.)

20 The ALJ also appears to have derived his light work RFC from nonexamining  
21 physician Dr. Chiang. (AR 16, 150, 156-61.) Plaintiff questions whether Dr. Chiang's  
22 opinion can be substantial evidence, but a non-examining physician's opinion can be  
23 considered when not contradicted by all other evidence, based on independent clinical  
24 findings, and supported by other evidence in the record. Andrews v. Shalala, 53 F.3d 1035,  
25 1041 (9th Cir. 1995). The ALJ could not and did not rely solely on Dr. Chiang's opinion to  
26 reject Dr. Ahangar's manipulative assessment. Morgan, 169 F.3d at 600; Lester v. Chater,  
27 81 F.3d 821, 831 (9th Cir. 1995). Dr. Chiang's opinion is consistent with the independent  
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1 clinical EMG study, the findings and diagnoses of Dr. Ravikumar and Dr. Sirajullah, more  
2 favorable to Plaintiff than Dr. Gonzalez' assessment and is consistent with other evidence  
3 cited by the ALJ.

4 Plaintiff, for example, returned to medium or heavy work for three or four months in  
5 2007. (AR 16.) Plaintiff asserts there is no evidence that the work was medium to heavy,  
6 but the record testimony of both the Claimant and vocational expert fully supports this  
7 finding. (AR 408-409.) The ALJ also cited Plaintiff's failure to pursue treatment. (AR 16.)  
8 Plaintiff mildly disputes the point, but at the hearing, when asked what treatment he had  
9 received for his back, knees, shoulders and hands, he replied "Nothing." (AR 402.)

10 The ALJ rejected Dr. Ahangar's manipulative assessment for specific and legitimate  
11 reasons supported by substantial evidence.

#### 12 **B. The ALJ Properly Discounted Plaintiff's Credibility**

13 The ALJ considered and properly discounted Plaintiff's subjective pain complaints in  
14 determining his RFC. Substantial evidence supports this determination.

15 The test for deciding whether to accept a claimant's subjective symptom testimony  
16 turns on whether the claimant produces medical evidence of an impairment that reasonably  
17 could be expected to produce the pain or other symptoms alleged. Bunnell v. Sullivan, 947  
18 F.2d 341, 346 (9th Cir. 1991); see also Reddick v. Chater, 157 F.3d 715, 722 (9th Cir.  
19 1998); Smolen v. Chater, 80 F.3d 1273, 1281-82 esp. n.2 (9th Cir. 1996). The  
20 Commissioner may not discredit a claimant's testimony on the severity of symptoms merely  
21 because they are unsupported by objective medical evidence. Reddick, 157 F.3d at 722;  
22 Bunnell, 947 F.2d at 343, 345. If the ALJ finds the claimant's pain testimony not credible,  
23 the ALJ "must specifically make findings which support this conclusion." Bunnell, 947 F.2d  
24 at 345. The ALJ must set forth "findings sufficiently specific to permit the court to conclude  
25 that the ALJ did not arbitrarily discredit claimant's testimony." Thomas v. Barnhart, 278 F.3d  
26 949, 958 (9th Cir. 2002); see also Rollins v. Massanari, 261 F.3d 853, 856-57 (9th Cir.  
27 2001); Bunnell, 947 F.2d at 345-46. Unless there is evidence of malingering, the ALJ can  
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1 reject the claimant’s testimony about the severity of a claimant’s symptoms only by offering  
2 “specific, clear and convincing reasons for doing so.” Smolen, 80 F.3d at 1283-84; see also  
3 Reddick, 157 F.3d at 722. The ALJ must identify what testimony is not credible and what  
4 evidence discredits the testimony. Reddick, 157 F.3d at 722; Smolen, 80 F.3d at 1284.

5 In this case, the ALJ concluded that Plaintiff’s medically determinable impairments  
6 reasonably could be expected to produce the alleged pain but the symptoms are not  
7 credible to the extent they are inconsistent with the assessed RFC. (AR 15.) There was no  
8 assertion that Plaintiff was malingering. Thus, the ALJ was required to offer specific, clear  
9 and convincing reasons for discounting Plaintiff’s subjective pain symptoms.

10 The ALJ did not find the Claimant’s complaints “sufficiently credible to justify any  
11 further limitations than those established by the objective medical record.” (AR 16.) Even  
12 though not determinative of the severity of pain, the medical evidence is nonetheless a  
13 relevant factor in determining the severity of a claimant’s pain. Rollins, 261 F.3d at 857;  
14 Smolen, 80 F.3d at 1285. Here, the medical evidence from Dr. Gonzalez, Dr. Ravikumar  
15 and Dr. Sirajullah is compelling, particularly the EMG.

16 There also exists other substantial non-medical evidence of activities inconsistent  
17 with total disability:

18 The claimant’s son, Richard Aaron Hanrahan, states that the claimant  
19 typically spends his days doing household chores, bathing and grooming,  
20 eating, watching television and movies, and going to high school football  
21 practices. He independently cares for himself, his dog, and his bird. He  
22 drives a car and leaves his home every day. He had no trouble walking and  
23 no lifting or pain problems were specified (Exhibit E). The claimant’s son’s  
24 statements contrast dramatically with the claimant’s own testimony that he  
25 can lift only two pounds, stand and walk only 15 to 20 minutes at a time,  
26 and sit for only 20 minutes at a time. Surely, his son, who lives with him,  
27 would have noted such severe loss of capacity, if it actually existed. In any  
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1 case, the claimant's active, independent lifestyle is not consistent with a  
2 finding of total disability.

3 (AR 16-17.) Claimant offers no answer to this evidence. Plaintiff also has not received  
4 treatment (AR 402), much less sought aggressive pain treatment. (AR 17.)

5 The ALJ properly discounted Plaintiff's credibility with specific, clear and convincing  
6 reasons supported by substantial evidence. The ALJ's RFC also is supported by substantial  
7 evidence.

8 **C. The ALJ Met The Commissioner's Burden To Prove**  
9 **That Plaintiff Can Perform Other Jobs In The National Economy**

10 Based on the assessed RFC, the ALJ determined at step four of the sequential  
11 process that Plaintiff could not perform his past relevant work in air-conditioning and  
12 heating. (AR 17.) Relying on the testimony of the vocational expert, the ALJ determined at  
13 step five of the sequential process that Plaintiff could perform other jobs in "significant  
14 numbers" in the national economy. Tackett v. Apfel, 180 F.3d 1094, 1099-1100 (9th Cir.  
15 1999). This determination is supported by substantial evidence.

16 The ALJ utilized the Social Security Administration's Medical Vocational Guidelines  
17 ("Guidelines" or "grids") as a framework for decisionmaking pursuant to 20 C.F.R.  
18 § 416.969a(d) and Social Security Rulings 83-12 and 83-14. The Guidelines were  
19 promulgated in 1978. See generally Heckler v. Brown, 461 U.S. 458, 460 (1983) (upholding  
20 the Guidelines). They provide a system "for disposing of cases that involve substantially  
21 uniform levels of impairment." Desrosiers v. Sec'y of Health & Human Services, 846 F.2d  
22 573, 578 (9th Cir. 1988) (Pregerson, J., concurring). The grids correlate a claimant's age,  
23 education, previous work experience, and RFC to direct a finding of disabled or not  
24 disabled, without the need of testimony from vocational experts. Cooper v. Sullivan, 880  
25 F.2d 1152, 1155 (9th Cir. 1989); Heckler, 461 U.S. at 461. The grids, however, only apply  
26 "where they completely and accurately represent a claimant's limitations." Tackett, 180 F.3d  
27 at 1101 (emphasis in original); see also Heckler, 461 U.S. at 462 n.5.  
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1 The grids present in table form a shorthand method for determining the availability  
2 and number of suitable jobs for a claimant. Tackett, 180 F.3d at 1101. The grids categorize  
3 jobs by three physical “exertional” levels, consisting of sedentary, light and medium work.  
4 Id. These exertional levels are further divided by the claimant’s age, education and work  
5 experience. Id. The grids direct a finding of disabled or not disabled based on the number  
6 of jobs in the national economy in the appropriate exertional category. Id. A claimant must  
7 be able to perform the full range of jobs in an exertional category for the grids to apply. Id.

8 “The ALJ must apply the grids if a claimant suffers only from an exertional  
9 impairment.” Cooper, 880 F.2d at 1155. The grids direct a ruling of disabled or not  
10 disabled. Id. If the grids direct a finding of disabled, the ALJ is bound by that result. Id. at  
11 1157.

12 The Ninth Circuit recognizes that nonexertional limitations may make the grids  
13 inapplicable. Tackett, 180 F.3d at 1101-1102. Nonexertional limitations are non-strength  
14 related limitations that include mental, postural, manipulative, sensory, or environmental  
15 limitations. Cooper, 880 F.2d at 1155 n.7.

16 In cases involving both exertional and nonexertional limitations, the grids are  
17 consulted first to determine whether a finding of disabled can be based on exertional  
18 limitations alone. Id. at 1155. If so, the grids direct a finding of disability which the  
19 Commissioner must accept. Id. at 1157.

20 If not, the ALJ must use the grids as a framework for consideration of how much the  
21 nonexertional limitations limit the range of work permitted by the exertional limitations.  
22 Tackett, 180 F.3d at 1102. A nonexertional impairment, if significant, may limit the  
23 claimant’s functional capacity in ways not contemplated by the grids. Id. In such instances,  
24 the ALJ may not rely on the grids alone for the availability of jobs but must obtain the  
25 testimony of a vocational expert. Id.; Thomas, 278 F.3d at 960; Moore, 216 F.3d at 869-71.

26 In this case, Plaintiff asserts nonexertional manipulative limitations. The ALJ  
27 determined that, if Plaintiff could perform the full range of light work, the Guidelines would  
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1 direct a finding of not disabled. (AR 18.) Because Plaintiff's ability to work was impeded by  
2 additional postural, visual and manipulative limitations that may erode the unskilled light  
3 occupational base, the ALJ properly consulted a vocational expert to determine whether  
4 jobs exist in substantial numbers in the national economy that Plaintiff can perform. See,  
5 e.g., Moore, 216 F.3d at 869 (7,700 regional and 125,000 national jobs was substantial  
6 evidence to support determination of not disabled); Thomas, 278 F.3d at 960 (1,300 local  
7 and 620,000 nationally sufficient); Moncada v. Chater, 60 F.3d 521, 524 (9th Cir. 1995)  
8 (2300 local and 64,000 nationally sufficient).

9 The vocational expert in this case testified that Plaintiff could perform the jobs of  
10 cashier, cleaner/housekeeper (27,000 locally), storage facility clerk (6,700 locally) and usher  
11 (2,000 locally), all of which are light exertion and unskilled. (AR 18.) The ALJ therefore met  
12 the Commissioner's step five burden to demonstrate that jobs exist in substantial numbers  
13 in the national economy that Plaintiff can perform. Plaintiff is not disabled within the  
14 meaning of the Social Security Act.

15 **ORDER**

16 IT IS HEREBY ORDERED that Judgment be entered affirming the decision of the  
17 Commissioner of Social Security and dismissing the case with prejudice.

18 LET JUDGMENT BE ENTERED ACCORDINGLY.

19  
20 DATED: August 12, 2010

\_\_\_\_\_  
/s/ John E. McDermott  
JOHN E. MCDERMOTT  
UNITED STATES MAGISTRATE JUDGE