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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MINERVA ESCOBEDO,)	CASE NO. CV 10-04938 RZ
)	
Plaintiff,)	
)	MEMORANDUM OPINION
vs.)	AND ORDER
)	
MICHAEL J. ASTRUE, Commissioner of Social Security,)	
)	
Defendant.)	
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Plaintiff Minerva Escobedo is blind in one eye, but the Administrative Law Judge nevertheless concluded that she retained the residual functional capacity to work at all exertional levels, with limitations imposed as a result of having her vision confined to one eye. Relying on the vocational expert’s testimony, the Administrative Law Judge further concluded that, although Plaintiff could not perform her past relevant work, there were sufficient jobs in the economy that she could perform notwithstanding her impairment, and therefore she was not entitled to receive disability benefits. In this Court, Plaintiff challenges the Commissioner’s decision on two grounds.

First, Plaintiff asserts that the Administrative Law Judge erroneously relied on the testimony of the vocational expert, because the hypothetical question he posed to the vocational expert did not include a limitation based on Plaintiff’s limited English skills. A vocational expert’s testimony can stand as substantial evidence supporting the

1 Administrative Law Judge's decision if the hypothetical questions he answers fairly
2 describe the claimant's limitations. *Embrey v. Bowen*, 849 F.2d 418, 422 (9th Cir. 1988).
3 Moreover, a hypothetical question which asks the vocational expert to credit a specific
4 portion of the record adequately incorporates limitations which that portion of the record
5 addresses, without the need for the Administrative Law Judge to spell them out. *Thomas*
6 *v. Barnhart*, 278 F.3d 947, 956 (9th Cir. 2002). Here, the Administrative Law Judge
7 established on the record that the vocational expert had been present during Plaintiff's
8 testimony [AR 54], and it was during that testimony that Plaintiff stated that she had
9 completed only the sixth grade, and that was in Mexico. [AR 30-31] The administrative
10 hearing was conducted with a Spanish-speaking interpreter [AR 29], so it was clear that
11 Plaintiff's English language skills were limited, and Plaintiff herself testified that she could
12 not read or write English, and only could say a few words. [AR 31] Thus, all this
13 information was before the vocational expert at the time that she testified, and the
14 Administrative Law Judge's hypothetical question asked the vocational expert to assume
15 a person of Plaintiff's education and background. [AR 55] Thus, it is clear that the
16 language limitation was well within the understanding of the vocational expert when she
17 testified, and therefore there is no merit to Plaintiff's first argument.

18 Plaintiff's second argument is that the Administrative Law Judge erred in
19 rejecting Plaintiff's own testimony. An Administrative Law Judge is entitled to use
20 ordinary techniques of credibility evaluation, *Fair v. Bowen*, 885 F.2d 597, 604 n.5 (1989).
21 Here, the Administrative Law Judge relied on the fact that there was little objective
22 evidence of any limitations beyond those she imposed, and that Plaintiff's statements were
23 inconsistent. [AR 21-22] These are valid bases for disbelieving a claimant. *Rollins v.*
24 *Massanari*, 261 F. 3d 853, 857 (9th Cir. 2001); *Bunnell v. Sullivan*, 947 F.2d 341 (9th Cir.
25 1991) (*en banc*). There was no documentation in the ophthalmologists' records of any
26 problem with Plaintiff's other eye. As for her claim that she was severely depressed, there
27 was no medical record indicating depression, and certainly not severe depression. There
28 was an indication that Plaintiff took an anti-anxiety medication (but, according to her own

