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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

TOMMIE LEE FINLEY,)	CASE NO. CV 13-01436 RZ
)	
Plaintiff,)	
)	MEMORANDUM OPINION
vs.)	AND ORDER
)	
CAROLYN W. COLVIN, Acting)	
Commissioner of Social Security,)	
)	
Defendant.)	

Plaintiff Tommie Lee Finley suffers from osteoarthritis in his left hip and both of his knees and degenerative joint disease [AR 20], but the Administrative Law Judge found that he was not disabled. [AR 27] Plaintiff challenges that determination on three grounds. None is persuasive.

First, Plaintiff asserts that he met Listing No. 1.02. All conditions of a listing must be satisfied in order for the listing to apply. *Sullivan v. Zebley*, 493 U.S. 521, 530 (1990). The Administrative Law Judge determined, however, that Plaintiff did not satisfy all the characteristics of that listing. For instance, there was no evidence of gross anatomical deformity. Although in this Court Plaintiff argues that he met *other* aspects of the Listing, he does not point to any evidence that he had a gross anatomical deformity.

Plaintiff also argues that he *equaled* the Listing, but gives no way in which this is so. A party must demonstrate a viable theory as to how a combination of

1 impairments equals a listing, before the failure to consider the issue will be error. *Lewis*
2 *v. Apfel*, 236 F.3d 503 (9th Cir. 2001). Plaintiff has not done so here.

3 Second, Plaintiff argues that the Administrative Law Judge erred in assessing
4 Plaintiff's residual functional capacity. Plaintiff asserts that the Administrative Law Judge
5 erred in disregarding the limitation, suggested by one of the treating personnel while
6 Plaintiff was in prison, that Plaintiff lift no more than 10 pounds. The Administrative Law
7 Judge stated that there was no objective evidence to support this limitation. [AR 23] In
8 this Court, Plaintiff points to no such evidence either. The Court therefore finds this
9 argument lacking.

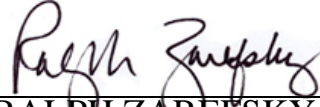
10 Plaintiff's third argument is that the Administrative Law Judge erred in
11 discrediting Plaintiff's assertions that his pain was completely disabling. This argument
12 too is unavailing. The Administrative Law Judge gave numerous valid reasons for not
13 concluding that Plaintiff's pain was so consuming that he could not work. He pointed to
14 Plaintiff's statement that he did not experience significant and chronic pain until two years
15 after his serious accident, which the Administrative Law Judge found implausible. [AR
16 23]. He also gave examples in the record of Plaintiff's having rated his pain at a moderate
17 level and, moreover, having exercised after having done so. [*Id.*] He also referenced
18 Plaintiff's relatively low use of pain medication despite his testimony of severe pain. [AR
19 24]

20 An administrative law judge can disbelieve a claimant's testimony as to the
21 level of his pain, and is entitled to use ordinary techniques of credibility evaluation when
22 confronting claims of pain. *Fair v. Bowen*, 885 F.2d 597, 604 n.5 (1989). Among those
23 are inconsistency with objective evidence, *Rollins v. Massanari*, 261 F.3d 853, 857 (9th
24 Cir. 2001), and medical treatment that appears conservative or restrained when compared
25 to the assertion that the pain is consuming. *Johnson v. Shalala*, 60 F.3d 1428, 1433 (9th
26 Cir. 1995). The Administrative Law Judge did not commit error in disbelieving Plaintiff's
27 statements as to the extent and impact of his pain.

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1 In accordance with the foregoing, the decision of the Commissioner is
2 affirmed.

3 DATED: September 23, 2013

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6 RALPH ZAREFSKY
7 UNITED STATES MAGISTRATE JUDGE
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