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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

KAREN SEWASKY, ¹)	NO. EDCV 10-147-MAN
)	
Plaintiff,)	
)	MEMORANDUM OPINION
v.)	
)	AND ORDER
MICHAEL J. ASTRUE,)	
Commissioner of Social Security,)	
)	
Defendant.)	
_____)	

Plaintiff filed a Complaint on February 8, 2010, seeking review of the denial by the Social Security Commissioner ("Commissioner") of plaintiff's application for a period of disability and disability insurance benefits ("DIB"). On March 3, 2010, the parties consented, pursuant to 28 U.S.C. § 636(c), to proceed before the undersigned United States Magistrate Judge. The parties filed a Joint Stipulation on November 12, 2010, in which: plaintiff seeks an order reversing the Commissioner's decision and remanding this case for the payment of

¹ On April 6, 2010, plaintiff filed a Notice of Errata and Request To Correct the Spelling of Plaintiff's Name ("Notice of Errata") noting that plaintiff's name was misspelled in the Summons and Complaint. According to plaintiff's Notice of Errata, the correct spelling of plaintiff's surname is Sewasky, not Sawasky.

1 benefits or, alternatively, for further administrative proceedings; and
2 defendant requests that the Commissioner's decision be affirmed. The
3 Court has taken the parties' Joint Stipulation under submission without
4 oral argument.

5
6 **SUMMARY OF ADMINISTRATIVE PROCEEDINGS**
7

8 Plaintiff filed an application for a period of disability and DIB.
9 (A.R. 9, 89-95, 112.) Plaintiff, who was born on August 4, 1966,² claims
10 to have been disabled since June 13, 2005, due to bipolar disorder and
11 affective mood disorder.³ (A.R. 91, 101, 105; Joint Stip. at 2.)
12 Plaintiff has past relevant work experience as an "inside salesperson
13 with responsibility for training and personnel." (A.R. 33, 106.)
14

15 After the Commissioner denied plaintiff's claim initially and upon
16 reconsideration (A.R. 38-42, 45-49), plaintiff requested a hearing (A.R.
17 51, 55-56). On February 18, 2009, plaintiff, who was represented by
18 counsel, appeared and testified at a hearing before Administrative Law
19 Judge F. Keith Varni (the "ALJ"). (A.R. 17-35.) Vocational expert
20 Joseph Mooney also testified. (A.R. 32-34.) On April 3, 2009, the ALJ
21 denied plaintiff's claim (A.R. 9-16), and the Appeals Council
22 subsequently denied plaintiff's request for review of the ALJ's decision
23

24
25 ² At the time of the alleged disability onset date, plaintiff
26 was 38 years old, which is defined as a "younger" individual. (A.R. 15;
20 C.F.R. § 404.1563.)

27 ³ Plaintiff's initial application alleged disability due to
28 bipolar disorder (A.R. 105); however, plaintiff later claimed disability
due to affective mood disorder as well (see, e.g., Joint Stipulation
("Joint Stip.") at 2).

1 (A.R. 1-3). That decision is now at issue in this action.

2
3 **SUMMARY OF ADMINISTRATIVE DECISION**
4

5 The ALJ found that plaintiff "meets the insured status requirements
6 of the Social Security Act through December 1, 2010." (A.R. 11.) The
7 ALJ also found that plaintiff has not engaged in substantial gainful
8 activity since June 13, 2005, the alleged onset date of her claimed
9 disability. (*Id.*) The ALJ further found that, at the time of the
10 alleged onset date, plaintiff was a "younger individual" with "at least
11 a high school education." (A.R. 15.) The ALJ determined that plaintiff
12 has "a severe mental impairment from substance abuse and a resulting
13 mood disorder." (A.R. 11.) The ALJ also determined that plaintiff
14 "does not have an impairment or combination of impairments that meets or
15 medically equals one of the listed impairments in 20 CFR. Part 404,
16 Subpart P, Appendix 1." (A.R. 11-12.)

17
18 The ALJ determined that plaintiff has the residual functional
19 capacity ("RFC") "to perform a full range of work at all exertional
20 levels but mentally, [plaintiff] can perform routine, repetitive entry
21 level work that is minimally stressful, requires no contact with the
22 general public and only superficial interpersonal contact with co-
23 workers and supervisors." (A.R. 12.)

24
25 The ALJ concluded that plaintiff is unable to perform her past
26 relevant work. (A.R. 14.) However, having considered plaintiff's age,
27 education, work experience, and RFC, as well as the testimony of the
28 vocational expert, the ALJ found that jobs exist in the national economy

1 that plaintiff could perform, including those of cleaner, housekeeper,
2 packager, and assembler. (A.R. 15.) Accordingly, the ALJ concluded
3 that plaintiff was not disabled within the meaning of the Social
4 Security Act from June 13, 2005, through the date of his decision.
5 (A.R. 16.)

6
7 **STANDARD OF REVIEW**
8

9 Under 42 U.S.C. § 405(g), this Court reviews the Commissioner's
10 decision to determine whether it is free from legal error and supported
11 by substantial evidence in the record as a whole. Orn v. Astrue, 495
12 F.3d 625, 630 (9th Cir. 2007). Substantial evidence is "such relevant
13 evidence as a reasonable mind might accept as adequate to support a
14 conclusion." *Id.* (citation omitted). The "evidence must be more than
15 a mere scintilla but not necessarily a preponderance." Connett v.
16 Barnhart, 340 F.3d 871, 873 (9th Cir. 2003). "While inferences from the
17 record can constitute substantial evidence, only those 'reasonably drawn
18 from the record' will suffice." Widmark v. Barnhart, 454 F.3d 1063,
19 1066 (9th Cir. 2006)(citation omitted).

20
21 Although this Court cannot substitute its discretion for that of
22 the Commissioner, the Court nonetheless must review the record as a
23 whole, "weighing both the evidence that supports and the evidence that
24 detracts from the [Commissioner's] conclusion." Desrosiers v. Sec'y of
25 Health and Human Servs., 846 F.2d 573, 576 (9th Cir. 1988); see also
26 Jones v. Heckler, 760 F.2d 993, 995 (9th Cir. 1985). "The ALJ is
27 responsible for determining credibility, resolving conflicts in medical
28 testimony, and for resolving ambiguities." Andrews v. Shalala, 53 F.3d

1 1035, 1039 (9th Cir. 1995).

2
3 The Court will uphold the Commissioner's decision when the evidence
4 is susceptible to more than one rational interpretation. Burch v.
5 Barnhart, 400 F.3d 676, 679 (9th Cir. 2005). However, the Court may
6 review only the reasons stated by the ALJ in his decision "and may not
7 affirm the ALJ on a ground upon which he did not rely." Orn, 495 F.3d
8 at 630; see also Connett, 340 F.3d at 874. The Court will not reverse
9 the Commissioner's decision if it is based on harmless error, which
10 exists only when it is "clear from the record that an ALJ's error was
11 'inconsequential to the ultimate nondisability determination.'" Robbins
12 v. Soc. Sec. Admin., 466 F.3d 880, 885 (9th Cir. 2006) (quoting Stout v.
13 Comm'r, 454 F.3d 1050, 1055 (9th Cir. 2006)); see also Burch, 400 F.3d
14 at 679.

15
16 **DISCUSSION**

17
18 Plaintiff makes the following two claims: (1) the ALJ did not
19 consider the findings of plaintiff's treating clinicians properly; and
20 (2) the ALJ failed to pose a complete hypothetical to the vocational
21 expert. (Joint Stip. at 2.)

22
23 **I. The ALJ Committed No Error In Considering The Findings Of**
24 **Plaintiff's Clinicians.**

25
26 To establish the existence of a medically determinable impairment,
27 an ALJ must rely on evidence from "acceptable medical sources." Social
28 Security Ruling 06-03p, 2006 SSR LEXIS 5, *3; see 20 C.F.R. §

1 404.1513(a). Acceptable medical sources include licensed physicians,
2 licensed or certified psychologists, licensed optometrists, licensed
3 podiatrists, and qualified speech language pathologists. 20 C.F.R. §
4 404.1513(a)(1)-(5). While only "'acceptable medical sources' can give
5 . . . medical opinions," Social Security Ruling 06-03p, 2006 SSR LEXIS
6 5, *3, an ALJ may consider evidence from "other sources," such as
7 therapists and clinicians, to understand the nature and severity of a
8 claimant's impairment as well as how the impairment affects a claimant's
9 ability to work, 20 C.F.R. § 404.1513(d)(emphasis added). Ultimately,
10 the ALJ has the discretion to determine the appropriate weight to accord
11 the opinion of a source other than an "acceptable medical source." See,
12 e.g., Diaz v. Shalala, 59 F.3d 307, 313-14 (9th Cir. 1995)(ALJ may
13 determine weight to give to opinion of "other source"); Social Security
14 Ruling 06-03p, 2006 SSR LEXIS 5, *7-8, *15-16 (noting that the ALJ
15 "generally should explain the weight given to opinions from . . . 'other
16 sources'").

17
18 Plaintiff claims that the ALJ failed to consider properly three
19 treatment notes from clinicians at San Bernardino Department of
20 Behavioral Health ("SBDBH"). In the first treatment note, dated
21 November 2, 2006, the clinician:⁴ (1) determined that plaintiff's
22 initial indications of dysfunction were "unemployed, social isolation,
23 hopeless, [and] helpless" (A.R. 174); (2) noted that plaintiff had
24 coherent thought processes, fair insight, poor judgment, congruent
25 affect, problems with concentration, but no problems with memory,
26

27 ⁴ Although difficult to read, it appears that Maria E. Morgan,
28 CTI, completed the treatment note, which was later signed by Davis
Powell, MFT. (A.R. 173-77.)

1 "perceptual process/hallucinations," or "thought content/delusions"
2 (A.R. 176); (3) diagnosed plaintiff with "Major Depressive Disorder,
3 Recurrent, Moderate" (A.R. 177); and (4) assessed plaintiff with a GAF
4 score of 47 (A.R. 177). The second treatment note,⁵ dated April 3, 2007,
5 indicated that plaintiff's: (1) appearance/hygiene, behavior, speech,
6 perceptual process, thought process, thought content, and memory were
7 within normal limits; (2) mood/affect was "depressed" and "anxious";
8 and (3) insight and judgment were "good." (A.R. 168-69.) In this
9 second treatment note, plaintiff was assessed with a GAF score of 42.
10 (A.R. 169.) The third treatment note,⁶ dated November 8, 2009, had
11 similar findings to plaintiff's April 3, 2007 treatment note, with the
12 notable exception that plaintiff was assessed with a GAF score of 48.
13 (A.R. 171-72.)

14
15 Contrary to plaintiff's contention, the ALJ properly considered the
16 findings of plaintiff's clinicians in determining the severity and
17 nature of plaintiff's impairment and how her impairment affects
18 plaintiff's ability to perform work. Specifically, the ALJ considered
19 the clinicians' findings in: (1) assessing whether plaintiff's
20 impairment or combination of impairments met or equaled a Listing; (2)
21 determining whether plaintiff's mental impairment was severe; (3)
22 considering the medical record and opinion evidence for purposes of
23 determining plaintiff's RFC; and (4) assessing plaintiff's credibility.

24
25
26 ⁵ The second treatment note appears to be completed by V. Chatez
27 (A.R. 168), who plaintiff contends is her treating clinician (Joint
28 Stip. at 3).

⁶ The name of the clinician who completed this treatment note is
illegible.

1 In his decision, the ALJ found that plaintiff has "a severe mental
2 impairment from substance abuse and a resulting mood disorder (20 C.F.R.
3 § 404.1520(c))." (A.R. 11.) In determining that plaintiff's impairment
4 or combination of impairments did not meet or equal a Listing, the ALJ
5 specifically referenced the clinicians' findings in determining
6 plaintiff's limitations in daily living, social functioning, and
7 concentration, persistence, or pace. For example, in support of his
8 determination that plaintiff has no restrictions in activities of daily
9 living, the ALJ cited normal mental status examinations of plaintiff in
10 which she was reported to be "alert and oriented, . . . [with] no memory
11 deficits, normal thought processes and content, no delusions/paranoia
12 and fair insight and judgment." (A.R. 12.) The ALJ specifically cited,
13 *inter alia*, treatment notes from the clinicians at SBDBH. (*Id.*)
14 Similarly, in determining that plaintiff has "mild to moderate
15 difficulties" in social functioning, the ALJ referenced plaintiff's
16 normal mental examinations as well as plaintiff's "mood disorder," which
17 the ALJ noted "might cause some interference in social interaction."
18 (*Id.*) In support of his finding, the ALJ cited the treatment notes from
19 plaintiff's clinicians at SBDBH. (*Id.*) Lastly, in finding that
20 plaintiff has no difficulties with regard to concentration, persistence,
21 or pace, the ALJ noted that "[o]n mental examination, there [wa]s no
22 evidence of any cognitive deficits, and [plaintiff] was alert and
23 oriented in all four spheres. Memory was within normal limits, and
24 there were no abnormal thought processes or delusions." (*Id.*) The ALJ
25 again cited treatment notes from plaintiff's clinicians at SBDBH. (*Id.*)
26
27 Beyond considering the clinicians' treatment notes for purposes of
28 determining whether plaintiff's impairment met or equaled a Listing, the

1 ALJ also considered their treatment notes in determining whether
2 plaintiff's mental impairment was "severe." (A.R. 11, 13.) In his
3 decision, the ALJ noted that "[plaintiff] alleges disability due to
4 bipolar disorder." (A.R. 13.) Notwithstanding plaintiff's allegations,
5 the ALJ noted that "State Agency review psychiatrists concluded that
6 [plaintiff] did not have a severe impairment." (*Id.*) "However, giving
7 [plaintiff] the benefit of the doubt, [the ALJ found that] she has a
8 severe mental impairment since she does receive mental health services
9 and medication from [SBDBH] for a mood disorder." (*Id.*) Thus, it
10 appears that the ALJ considered the findings of the clinicians from
11 SBDBH in determining that plaintiff's mood disorder was a severe
12 impairment -- *i.e.*, an impairment that "more than minimally limits
13 [plaintiff's] ability to perform basic work activities." (A.R. 11.)
14

15 The ALJ also considered the findings of the SBDBH clinicians in
16 determining plaintiff's RFC. In his decision, the ALJ generally
17 referenced the treatment notes from SBDBH, noting that plaintiff
18 "received routine outpatient treatment for complaints of mood swings,
19 depression and anxiety." (A.R. 13.) In so doing, the ALJ specifically
20 cited Exhibit 3F -- an exhibit which includes all three treatment notes
21 from plaintiff's treating clinicians. (*Id.*) Further, the ALJ generally
22 discussed the mental examinations performed by plaintiff's treating
23 clinicians and other medical sources. The ALJ noted that plaintiff's
24 "[m]ental status examinations have been normal. [Plaintiff] was alert
25 and oriented, had no memory deficits, normal thought processes and
26 content, no delusions/paranoia and fair insight and judgment (Exhibit
27 2F, p. 15; Exhibit 3F, pages 4, 7 and 10; Exhibit 8F, p. 13)." (A.R.
28 12.) Additionally, the ALJ noted that there was "no evidence of any

1 cognitive deficits, [and plaintiff's m]emory was within normal
2 limits and there were no abnormal thought processes or delusions
3 (Exhibit 2F, p. 15; Exhibit 3F, pages 4, 7 and 10; Exhibit 8F, p. 13)."
4 (*Id.*) The ALJ also referenced the GAF scores assessed by plaintiff's
5 treating clinicians and treating physician, Sean Faire, M.D., noting
6 that they "went from 42 (Exhibit 3F, p. 7) to 55 (Exhibit 3F, p. 4)."
7 (*Id.*) Further, in finding the assessed GAF scores to be not credible,
8 the ALJ specifically cited to pages 7 and 10 of Exhibit 3F which contain
9 the GAF assessments from some of the SBDBH clinicians. (A.R. 14.)

10
11 Lastly, in assessing plaintiff's credibility, the ALJ again
12 referenced the findings of the SBDBH clinicians. The ALJ found, *inter*
13 *alia*, that plaintiff's "laundry list of mental symptoms . . . are
14 rebutted by the records from [SBDBH] in which mental status examinations
15 were consistently normal." (A.R. 14.) The ALJ also found that
16 plaintiff's testimony that "she frequently stays in bed and needs
17 hygiene prompts" was "exaggerated and unsupported by treating source
18 records, showing normal mental status examination. [Plaintiff] was
19 alert and oriented, had no memory deficits, normal thought processes and
20 content, no delusions/paranoia and fair insight and judgment (Exhibit
21 2F, p. 15; Exhibit 3F, pages 4, 7 and 10; Exhibit 8F, p. 13)." (A.R.
22 14.) Again, the ALJ specifically cited to exhibits which contain some
23 of the treatment records from clinicians at SBDBH.

24
25 Accordingly, because the ALJ plainly made both general and specific
26 references to their findings throughout his decision, plaintiff's
27 contention that the ALJ failed to consider the findings of plaintiff's
28 treating clinicians is without merit.

1 To the extent plaintiff contends that the ALJ committed error by
2 not providing specific and legitimate reasons for rejecting the
3 clinicians' "opinions" regarding plaintiff's GAF scores, plaintiff's
4 contention is unpersuasive. As an initial matter, plaintiff's
5 clinicians are not "acceptable medical sources" or "treating sources,"⁷
6 and thus, there is no requirement that the ALJ give specific and
7 legitimate reasons for disregarding their opinions. Social Security
8 Ruling 06-03p, 2006 SSR LEXIS 5 (noting that "only 'acceptable medical
9 sources' can give . . . medical opinions"); Bain v. Astrue, 319 Fed.
10 Appx. 543, 546 (9th Cir. 2009)(noting that an ALJ has only to provide
11 "germane" reasons for discrediting the opinion of a non-acceptable
12 medical source)(*citing* Dodrill v. Shalala, 12 F.3d 915, 919 (9th Cir.
13 1993); Kus v. Astrue, 276 Fed Appx. 555, 556 (9th Cir. 2008)(noting that
14 "[a]s with other witnesses, the ALJ was required to take into account
15 evidence from [non-acceptable medical sources] 'unless he or she
16 expressly determine[d] to disregard such testimony' and gave reasons for
17 doing so")(quoting Lewis v. Apfel, 236 F.3d 503, 511 (9th Cir. 2001)).
18 Further, an ALJ is not required to "discuss every piece of evidence."
19 Howard ex rel. Wolff v. Barnhart, 341 F.3d 1006, 1012 (9th Cir.
20 2003)(citation and internal quotations omitted).

21
22
23 ⁷ Plaintiff relies on Benton ex rel. Benton v. Barnhart, 331
24 F.3d 1030 (9th Cir. 2003), and claims that her clinicians should be
25 considered "treating sources" because they "were working as [a] team
26 headed by a physician." (Joint Stip. at 4-5.) While plaintiff's
27 treating physician, Sean Faire, M.D., completed an Outpatient Medication
28 Record, prescribed plaintiff medication, and worked at SBDBH with
plaintiff's clinicians, there is no evidence that Dr. Faire worked with
plaintiff's clinicians as part of a medical team. Moreover, there is no
evidence that the clinicians were supervised by Dr. Faire, and thus, the
clinicians' opinions cannot be attributed to Dr. Faire. Accordingly,
plaintiff's contention is without merit.

1 Moreover, the ALJ gave specific and legitimate reasons for
2 determining that plaintiff could work, notwithstanding these assessed
3 GAF scores. The ALJ noted that plaintiff's GAF scores were "not
4 supported by the objective evidence," because "[o]n examination,
5 [plaintiff's] mood was depressed and anxious but mental status
6 examinations were normal (Exhibit 3F, pages 4, 7 and 10; Exhibit 8F, p.
7 13)." (A.R. 14.) The ALJ further noted that: "[t]reating records
8 . . . show good improvement, the denial of serious mental symptoms,
9 stable mood, that [plaintiff] was doing well . . . with no medication
10 side effects"; and there was "no reason why [plaintiff] could not do
11 work within the [assessed RFC]." (*Id.*) Thus, the ALJ did give specific
12 and legitimate reasons for his determination that plaintiff's assessed
13 GAF scores did not establish an inability to work.

14
15 Plaintiff also contends that the ALJ failed to provide specific and
16 legitimate reasons for rejecting the clinicians' findings regarding
17 plaintiff's depression and trouble concentrating. (Joint Stip. at 5-6.)
18 With respect to plaintiff's depressed state, plaintiff contends that it
19 "would have an impact on her ability to be around people and properly
20 interact with people at her job." (Joint Stip. at 5.) With respect to
21 her difficulty concentrating, plaintiff claims that it "would indicate
22 that she would be unable to remember what her job tasks would be or how
23 to complete a job assignment." (*Id.*)

24
25 Significantly, the ALJ noted that plaintiff's mood was depressed on
26 examination, but that treating records, including records from SBDBH
27 clinicians, "show[ed] good improvement, the denial of serious mental
28 symptoms, stable mood, that [plaintiff] was doing well . . . and no

1 reason why [plaintiff] could not do work with the [assessed RFC]."
2 (A.R. 14.) With respect to concentration difficulties, the ALJ, in
3 finding that plaintiff did not meet a Listing, found that plaintiff did
4 not have any difficulties concentrating, because, as noted *supra*, mental
5 examinations showed "no evidence of cognitive deficits," memory "within
6 normal limits," "no abnormal thought processes or delusions," and that
7 plaintiff "was alert and oriented in all four spheres." (A.R. 12.) The
8 ALJ cited evidence from SBDBH clinicians, as well as from acceptable
9 medical sources, in support of his finding. It thus appears that the
10 ALJ appropriately rejected the clinicians' findings that plaintiff is
11 too depressed to work with and around people and has difficulties
12 concentrating that would render her unable to work.

13
14 Even assuming *arguendo* that the ALJ committed error in rejecting
15 the SBDBH clinicians' findings, any such error was harmless, because
16 plaintiff's assessed RFC does not appear to be inconsistent with the
17 clinicians' findings that plaintiff is depressed and has some difficulty
18 concentrating. In pertinent part, the ALJ recognized plaintiff's severe
19 mental impairment from substance abuse and her resulting mood disorder
20 (A.R. 11), and thus, the ALJ included appropriate limitations in
21 plaintiff's RFC -- restricting plaintiff to "routine, repetitive entry
22 level work that is minimally stressful, requires no contact with the
23 general public and only superficial interpersonal contact with co-
24 workers and supervisors" (A.R. 12). In other words, plaintiff's RFC
25 does not appear to be inconsistent with any limitations arising out of
26 plaintiff's depressed state and poor concentration.

27
28 Accordingly, there is no basis for finding reversible error in

1 connection with the ALJ's consideration of the findings of plaintiff's
2 SBDBH clinicians.

3
4 **II. The ALJ Posed A Complete Hypothetical To The Vocational Expert.**

5
6 Hypothetical questions posed to a vocational expert must set forth
7 all the claimant's limitations. See Magallanes v. Bowen, 881 F.2d 747,
8 756 (9th Cir. 1989); Embrey v. Bowen, 859 F.2d 418, 422 (9th Cir. 1988).
9 The hypothetical questions, however, need not include all conceivable
10 limitations that a favorable reading of the record may suggest -- only
11 those limitations the ALJ finds to exist. See, e.g., Bayliss v.
12 Barnhart, 427 F.3d 1211, 1217-18 (9th Cir. 2005); Rollins v. Massanari,
13 261 F.3d 853, 857 (9th Cir. 2001); Magallanes, 881 F.2d at 756-57;
14 Martinez v. Heckler, 807 F.2d 771, 773-74 (9th Cir. 1986).

15
16 Here, the hypothetical question posed to the vocational expert
17 included all limitations the ALJ found to exist. To the extent
18 plaintiff contends that the ALJ committed error by not including
19 additional mental limitations, plaintiff's contention is without merit.
20 In pertinent part, plaintiff's clinicians found that plaintiff was
21 depressed and anxious; had feelings of hopelessness, helplessness, and
22 social isolation; had concentration problems, fair insight, and poor
23 judgment; and assessed plaintiff with GAF scores of 42, 47, and 48. The
24 clinicians did not opine on whether plaintiff had any resulting work-
25 related limitations.⁸ Therefore it is unclear what additional

26
27 ⁸ At best, the only limitation included in the clinicians'
28 treatment notes is plaintiff's problems with concentration; however, as
the ALJ included the limitation that plaintiff be restricted to routine,
repetitive work, no reversible error was committed.

1 limitations, if any, the ALJ failed to include in his hypothetical to
2 the vocational expert. Moreover, the ALJ addressed plaintiff's "mental
3 problems" in his hypothetical question by limiting plaintiff to routine,
4 repetitive, entry-level work that is minimally stressful, requires no
5 contact with the general public, and requires only a superficial degree
6 of interpersonal contact with co-workers and supervisors. (A.R. 33-34.)
7 Accordingly, no reversible error was committed by the ALJ.

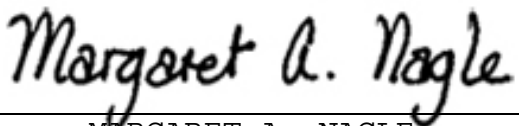
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9 **CONCLUSION**

10
11 For the foregoing reasons, the Court finds that the Commissioner's
12 decision is supported by substantial evidence and is free from material
13 legal error. Neither reversal of the Commissioner's decision nor remand
14 is warranted.

15
16 Accordingly, IT IS ORDERED that Judgment shall be entered affirming
17 the decision of the Commissioner of the Social Security Administration.
18 IT IS FURTHER ORDERED that the Clerk of the Court shall serve copies of
19 this Memorandum Opinion and Order and the Judgment on counsel for
20 plaintiff and for defendant.

21
22 **LET JUDGMENT BE ENTERED ACCORDINGLY.**

23
24 DATED: July 26, 2011

25
26 
27 _____
28 MARGARET A. NAGLE
UNITED STATES MAGISTRATE JUDGE