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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CHASE DAVIS,)	CASE NO. ED CV 10-00255 RZ
)	
Plaintiff,)	
)	MEMORANDUM OPINION
vs.)	AND ORDER
)	
MICHAEL J. ASTRUE, Commissioner)	
of Social Security,)	
)	
Defendant.)	

The central question presented by this Social Security disability action is whether the Administrative Law Judge was justified in rejecting the opinion of Plaintiff’s treating physicians. Plaintiff’s two treating physicians, on questionnaires, evaluated Plaintiff as having limitations that would render him disabled. The questionnaires directed the person answering to make his or her assessment apart from the effects of drug or alcohol use or abuse. The Administrative Law Judge rejected the findings of the treating physicians, and held that Plaintiff was not disabled.

Additional arguments posed by Plaintiff, such as the absence of a complete hypothetical question to the vocational expert, depend on the resolution of this issue about the correctness of rejecting the treating physicians’ opinions. So too does Plaintiff’s argument that the Administrative Law Judge did not fully consider the opinions of the treating physicians. While the Administrative Law Judge did not discuss each piece of

1 evidence evaluated by the treating physicians, he accepted their assessment of Plaintiff,
2 except as to the effect of alcohol or drug use on Plaintiff's condition. Thus, the primary
3 issue remains, as to whether the Administrative Law Judge was within his rights in
4 rejecting the treating physicians' opinions. The Court concludes that he was.¹

5 The opinion of a treating physician is not to be lightly disregarded; indeed, it
6 is preferred, and is to be considered even when it is not entitled to controlling weight.
7 *Aukland v. Massanari*, 257 F.3d 1033, 1036 (9th Cir. 2001); *Holohan v. Massanari*, 246
8 F.3d 1195, 1201-03 (9th Cir. 2001). Nevertheless, especially where another doctor gives
9 a conflicting opinion, the Administrative Law Judge can reject the treating physician's
10 opinion if he gives specific and legitimate reasons for doing so, and those reasons are
11 backed by substantial evidence in the record. *Ryan v. Commissioner of Social Security*,
12 528 F.3d 1194, 1198 (9th Cir. 2008), quoting *Lester v. Chater*, 81 F.3d 821, 830 (9th Cir.
13 1996). That is the situation here.

14 A number of such reasons appear in the Administrative Law Judge's opinion.
15 Thus, he noted that Plaintiff admitted that he was much improved when he was medication
16 compliant [AR 266]; that Plaintiff reported no hallucinations shortly after treatment, and
17 said he was feeling a lot better [*id.*]; that he had some reported success in his drug
18 treatment program [*id.*]; that, in the opinion of the consultative psychiatrist, the fact that
19 Plaintiff could describe his psychosis in an objective manner contradicted any claim of
20 being psychotic at the time, and that his was the type of typical claim seen in the clinic by
21 persons feigning psychosis [*id.*]; that, on a longitudinal basis, Plaintiff was responsive to
22 medications, with recession of psychotic symptoms and prominent mood swings [AR 267];
23 that, when he was off drugs, he was stable without symptoms and, according to the
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25 ¹ Plaintiff adds one additional argument: that the Administrative Law Judge did not consider
26 the side effects of Plaintiff's medications. Plaintiff then goes on to give the results of his internet
27 research, detailing potential side effects of the various medications he has taken. This proves
28 nothing. All medications have potential side effects, and the fact that Plaintiff can conjure up a
listing of them shows nothing about a claim for disability. Plaintiff has identified nothing in the
record to intimate that any of his behaviors or capabilities are affected by medication.

