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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA-WESTERN DIVISION**

DANIELLE JOHNSON,  
Plaintiff,  
v.  
MICHAEL J. ASTRUE,  
Commissioner of Social Security,  
Defendant.

Case No. CV 10-1177 (SH)  
MEMORANDUM DECISION  
AND ORDER

This matter is before the Court for review of the decision by the Commissioner of Social Security denying plaintiff’s applications for Disability Insurance Benefits and for Supplemental Security Income. Pursuant to 28 U.S.C. § 636(c), the parties have consented that the case may be handled by the undersigned. The action arises under 42 U.S.C. § 405(g), which authorizes the Court to enter judgment upon the pleadings and transcript of the record before the Commissioner. The plaintiff and the defendant have filed their pleadings (Plaintiff’s Brief with Points and Authorities in Support of Remand

1 or Reversal [“Plaintiff’s Brief”]; Defendant’s Memorandum of Points and Authorities in  
2 Opposition to Reversal or Remand of the Commissioner’s Final Decision), and the  
3 defendant has filed the certified transcript of record. After reviewing the matter, the  
4 Court concludes that the decision of the Commissioner should be affirmed.

5 On January 18, 2007, plaintiff Danielle Johnson filed an application a period of  
6 disability or Disability Insurance Benefits. On January 19, 2007, plaintiff filed an  
7 application for Supplemental Security Income. Both applications alleged an inability to  
8 work since December 12, 2003, due to Reflex Sympathetic Dystrophy and Complex  
9 Regional Pain Syndrome. (See 1 Administrative Record [“AR”] 129-84). On August 4,  
10 2009, an Administrative Law Judge (“ALJ”) found that plaintiff was not disabled within  
11 the meaning of the Social Security Act. (See 1 AR 6-16).

12 Following the Appeals Council’s denial of plaintiff’s request for a review of the  
13 hearing decision (see 1 AR 1-3 ), plaintiff filed this action in this Court.

14 **ISSUE NOS. 1 AND 2:**

15 Plaintiff asserts that the ALJ improperly determined that plaintiff could perform  
16 her past relevant work as a receptionist, because (a) the ALJ did not consider the physical  
17 and mental demands of that work as actually performed and (b) such work was  
18 inconsistent with the job description contained in the Dictionary of Occupational Titles.  
19 Defendant argues that the ALJ properly found that plaintiff could perform such work.

20 In the Decision, the ALJ initially found that plaintiff had the following severe  
21 impairments: pain disorder and mild foot drop. (AR 14).

22 The ALJ subsequently found that plaintiff had the following residual functional  
23 capacity (“RFC”)<sup>1</sup>:

24 . . . [T]he claimant has the residual functional capacity to perform light work  
25 . . . . in that she can lift/carry up to 10 lbs. frequently and 20 lbs. occasionally;

26 \_\_\_\_\_  
27 <sup>1</sup> The RFC is the most a claimant can do despite his or her limitations. 20  
28 C.F.R. §§ 404.1545(a), 416.945(a).

1 occasionally push and pull with the left upper extremity and left lower extremity;  
2 occasionally balance, climb, bend, stoop, kneel, squat, and balance; but she cannot  
3 climb ladders, ropes or scaffolds; she can occasionally grip and grasp with the left  
4 upper extremity; and she should avoid extreme cold/heat/vibrations, machinery,  
5 and heights. (AR 14).<sup>2</sup>

6 The ALJ subsequently found that plaintiff could perform her past relevant work as  
7 a receptionist:

8 The claimant indicated in her work history and testimony that she performed  
9 the [receptionist] job within 15 years of adjudication. Therefore, this job  
10 meets criteria for past relevant work. [¶] In comparing the claimant's  
11 residual functional capacity with the physical and mental demands of this  
12 work, the undersigned finds that the claimant is able to perform it as actually  
13 and generally performed. The claimant's residual and functional capacity as  
14 described herein allows for performance of her past relevant work as a  
15 receptionist since this job falls within the parameters of light work as per the  
16 vocational expert's testimony. The vocational expert's testimony is being  
17 relied upon due to its consistency with the Dictionary of Occupational Titles  
18 and her familiarity with the legal requirements of our programs. (AR 15).

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22 Contrary to plaintiff's assertion, the ALJ properly considered the physical and  
23 mental demands of plaintiff's past work as a receptionist. See 20 C.F.R. § 404.1560(b)  
24 ("We will first compare our assessment of your residual functional capacity with the  
25 physical and mental demands of your past relevant work."); 20 C.F.R. § 416.960(b)

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27 <sup>2</sup> "Light work involves lifting no more than 20 pounds at a time with frequent  
28 lifting or carrying of objects weighing up to 10 pounds." 20 C.F.R. §§ 404.1567(b),  
416.967(b). If a claimant can do light work, he or she can also do sedentary work, unless  
there are additional limiting factors. Id.

The Court notes that plaintiff does not challenge the ALJ's determination about plaintiff's RFC.

1 (same); Villa v. Heckler, 797 F.2d 794, 797-98 (9th Cir. 1986) (“To determine whether a  
2 claim has the residual functional capacity to perform his past relevant work, the [ALJ]  
3 must ascertain the demands of the claimant’s former work and then compare the demands  
4 with his present capacity.”).

5         The ALJ properly relied on plaintiff’s statements about her past receptionist work -  
6 - plaintiff stated that her job involved “message taking, greeting clients, scheduling,  
7 [r]eceptionist duties, copy and put together client files, order supplies, data entry, filing,  
8 pick up files from warehouse (sic)”); that each day she walked for one hour, stood for  
9 three hours, sat and wrote, typed or handled small objects for eight hours, stooped and  
10 knelt for two hours, crouched and reached for four hours, and did not climb, crawl or  
11 handle, grab, or grasp big objects; that she had to carry file folders approximately fifty  
12 feet and carry boxes of files approximately one hundred feet; that fifty pounds was the  
13 heaviest weight she lifted; and that she frequently lifted less than ten pounds (see 1 AR  
14 141, 156) -- in assessing the physical and mental demands of that work. See Social  
15 Security Ruling 82-62 (“The claimant is the primary source for vocational  
16 documentation, and statements by the claimants regarding past work are generally  
17 sufficient for determining the skill level; exertional demands and nonexertional demands  
18 of such work).

19  
20         While plaintiff focuses on her limitations in pushing/pulling with the left upper and  
21 left lower extremities and in gripping/grasping with the left upper extremity (see  
22 Plaintiff’s Brief at 2-3, 5), those tasks were not included in the job description provided  
23 by plaintiff, and according to medical records plaintiff is right-handed (see 1 AR 254).  
24 Plaintiff failed to show that her RFC prevented her from doing her past receptionist work.  
25 See Pinto v. Massanari, 249 F.3d 840, 845 (9th Cir. 2001)(“At Step Four, claimants have  
26 the burden of showing that they can no longer perform their past relevant work.”). Thus,  
27 the ALJ did not err in finding that plaintiff can perform her past receptionist work based  
28 on the comparison between her RFC and the physical and mental demands of such work.

1           Moreover, the ALJ properly relied on the vocational expert’s testimony that a  
2 person with plaintiff’s RFC could perform the job of receptionist using a description  
3 consistent with the Dictionary of Occupational Titles (“DOT”)<sup>3</sup> (see 1 AR 46-48). See 20  
4 C.F.R. § 404.1560 (b)(2) (“We may use the services of vocational experts . . . or other  
5 resources, such as the “Dictionary of Occupational Titles” . . . to obtain evidence we need  
6 to help us determine whether you can do your past relevant work, given your residual  
7 functional capacity. . . . [A] vocational expert . . . may offer expert opinion testimony in  
8 response to a hypothetical question about whether a person with the physical and mental  
9 limitations imposed by the claimant’s medical impairment(s) can meet the demands of the  
10 claimant’s previous work, either as the claimant actually performed it or as generally  
11 performed in the national economy.”); 20 C.F.R. § 404.960(b)(2) (same). Plaintiff,  
12 relying on the description of “strength” needed for a receptionist,<sup>4</sup> argues that her  
13 limitations (occasionally pushing and pulling with the left upper extremity and left lower  
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17 <sup>3</sup> The vocational expert cited DOT 323.687-014 which defines the duties of a  
receptionist as follows:  
18       Receives callers at establishment, determines nature of business, and directs callers  
19       to destination; Obtains caller’s name and arranges for appointment with person  
20       called upon. Directs caller to destination and records name, time of call, nature of  
21       business, and person called upon. May operate PBX telephone console to receive  
22       incoming messages. May type memos, correspondence, reports, and other  
23       documents. May work in office of medical practitioner or in other health care  
24       facility and be designated Outpatient Receptionist (medical ser.) Or Receptionist,  
25       Doctor’s Office (medical ser.). May issue visitor’s pass when required. May make  
26       future appointments and answer inquiries [INFORMATION CLERK (clerical)  
27       237.367-022]. May perform variety of clerical duties [ADMINISTRATIVE  
28       CLERK (clerical) 219.362-010] and other duties pertinent to type of establishment.  
May collect and distribute mail and messages.

25 <sup>4</sup> The following paragraph is located under the description of the duties of a  
26 receptionist contained in DOT 237.367-038:  
27       **STRENGTH:** Sedentary Work - Exerting up to 10 pounds of force occasionally  
28       (Occasionally: activity or condition exists up to 1/3 of the time) and/or negligible  
amount of force frequently (Frequently: activity or condition exists from 1/3 to 2/3  
of the time) to lift, carry, push, pull, or otherwise move objects, including the  
human body. Sedentary work involves sitting most of the time, but may involve  
walking or standing for brief periods of time. Jobs are sedentary if walking and  
standing are required only occasionally and all other sedentary criteria are met.

1 extremity and occasionally gripping and grasping with left upper extremity) renders her  
2 unable to perform the work as a receptionist, as such work requires exerting a negligible  
3 amount of force frequently (push and pull) and handling frequently. Plaintiff claims that  
4 as a result of her limitations she would be relegated to performing her job as a “one  
5 handed worker” and therefore would not be able to do various receptionist tasks (operate  
6 PBX telephone console to receive incoming messages; type memos, correspondence,  
7 reports, and other documents; or collect and distribute mail and messages). (Plaintiff’s  
8 Brief at 4-5).  
9

10 Contrary to plaintiff’s assertion, the job of receptionist as described in DOT  
11 237.367-038 is not inconsistent with plaintiff’s RFC. Since there is an “and/or” before  
12 the words “a negligible amount of force frequently,” a receptionist may not have to use a  
13 “negligible amount of force frequently.” Moreover, the description plaintiff relies on  
14 refers to the strength factor required for sedentary work, which is less than the strength  
15 factor required for light work (which the ALJ found petitioner capable of doing). See  
16 Selected Characteristics of Occupations Defined in the Revised Dictionary of  
17 Occupational Titles, 1993 Edition (noting that the assessment of physical demands “is  
18 focused primarily on the physical demands of the job—not the physical capacities of the  
19 worker”). Moreover, by not challenging the ALJ’s finding that she can perform light  
20 work, plaintiff implicitly admits that she can perform sedentary work, and that at the very  
21 least she can exert a “negligible” amount of force.  
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23 In any event, even if the ALJ erred in finding that plaintiff can perform her past  
24 relevant work as a receptionist based on the vocational expert’s testimony using the DOT  
25 description, the ALJ’s finding is harmless in light of the ALJ’s other finding that plaintiff  
26 can perform her past relevant work as a receptionist (relying on plaintiff’s statements of  
27 her past work). See Social Security Ruling 82-61 (“[A] claimant will be found to be ‘not  
28 disabled when it is determined that he or she retains the RFC to perform: 1. The actual  
functional demands and job duties of a particular past relevant job; *or* 2. The functional

1 demands and job duties of the occupation as generally required by employers throughout  
2 the national economy.”); Matthews v. Shalala, 10 F.3d 678, 681 (9th Cir. 1993) (“[S]ince  
3 [the plaintiff] failed to show he was unable to return to his previous job as a receiving  
4 clerk/inspector, the burden of proof remained with [the plaintiff]. The vocational expert’s  
5 testimony was thus useful, but not required.”); Tommasetti v. Astrue, 533 F.3d 1035,  
6 1038 (stating that an ALJ’s error is harmless “when it is clear from the record that . . . it  
7 was ‘inconsequential to the ultimate nondisability determination.’”).  
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10 **ORDER**

11 For the foregoing reasons, the decision of the Commissioner is affirmed.

12 DATED: May 3, 2011

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16 STEPHEN J. HILLMAN  
17 UNITED STATES MAGISTRATE JUDGE  
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