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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
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11 JO ANN CARRANZA, )

12 Plaintiff, )

13 vs. )

14 CAROLYN W. COLVIN, )  
Acting Commissioner of Social Security, )

15 Defendant. )  
16 \_\_\_\_\_ )

CASE NO. ED CV 12-01674 RZ

MEMORANDUM OPINION  
AND ORDER

17 The Administrative Law Judge found that Plaintiff Jo Ann Carranza had both  
18 physical and mental impairments that were severe, but that she was not disabled. Plaintiff  
19 challenges the determination on three grounds, none of which persuades the Court.

20 First, Plaintiff asserts that the Administrative Record is incomplete as to the  
21 medical expert's testimony, because there are a number of places where the word  
22 "inaudible" appears in place of significant testimony. In response to this argument,  
23 Defendant submitted a supplemental transcript, with almost all the "inaudible" words  
24 replaced by text. Nevertheless, Plaintiff notified the Court thereafter that she would not  
25 file a reply, but would rest on its previously-filed memorandum. The Court concludes,  
26 therefore, that any issue concerning the transcript has been resolved, and that the  
27 replacement of "inaudible" with text has not disclosed any errors that Plaintiff previously  
28 might not have seen.

1 Second, Plaintiff asserts that the Administrative Law Judge failed to properly  
2 consider Plaintiff's subjective complaints and testimony and to properly assess her  
3 credibility. Unless an Administrative Law Judge determines that a claimant is malingering,  
4 the Administrative Law Judge must give clear and convincing reasons for disbelieving a  
5 claimant's testimony as to her subjective symptoms, such as pain or fatigue. *Bunnell v.*  
6 *Sullivan*, 947 F.2d 341 (9th Cir. 1991) (*en banc*); *Smolen v. Chater*, 80 F.3d 1273 (9th Cir.  
7 1996). The Administrative Law Judge here complied with this standard.

8 To begin with, the Administrative Law Judge took Plaintiff's testimony into  
9 account when identifying Plaintiff's residual capacity to function. Time after time, he  
10 rejected opinions of medical examiners that would have found Plaintiff to have little or no  
11 impairment, or that the impairments created little or no impact on her ability to function.  
12 [AR 20-21] He thus imposed greater restrictions on her ability to function than many of  
13 the medical professionals suggested, as a means of taking into account some of Plaintiff's  
14 symptoms. Plaintiff asserts that the Administrative Law Judge wrongly relied on the  
15 medical evidence to discredit Plaintiff's testimony, but that is not correct. An  
16 administrative law judge is entitled to rely on objective evidence when considering  
17 subjective symptoms, so long as that is not the *only* evidence he relies on. *Burch v.*  
18 *Barnhart*, 400 F.3d 676, 681 (9th Cir. 2005); *Rollins v. Massanari*, 261 F. 3d 853, 857 (9th  
19 Cir. 2001).

20 In addition, the Administrative Law Judge explicitly took Plaintiff's subjective  
21 symptoms (as well as her objective ones) into account. For example, he wrote:

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23 The claimant has significant symptoms from right shoulder  
24 impingement and arthritis of the hand and consideration is given  
25 to these in the light limitations adopted herein. The claimant  
26 also has significant symptoms from a mood disorder, not  
27 otherwise specified; panic disorder; and alcohol abuse, in partial  
28 remission. Consideration is given to these symptoms in the

1 mental limitations adopted herein. Despite the claimant's  
2 allegations of her disabling functional limitations, the evidence  
3 portrays the claimant has a history of non-compliance with  
4 treatment. The limitations herein take into consideration the  
5 claimant's subjective complaints, medications, treatment record,  
6 and the actual clinical and diagnostic findings.

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8 [AR 23]

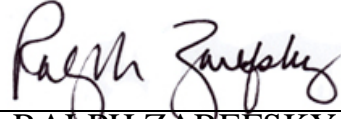
9 Furthermore, the Administrative Law Judge pointed to other valid reasons for  
10 not believing Plaintiff to be totally disabled. He noted that medication helped her [AR 17  
11 – Xanax; AR 18 – Zoloft], but that she was non-compliant with treatment [AR 17, 19] and  
12 missed appointments [AR 17]. The Administrative Law Judge also noted the conservative  
13 character of the treatment, a factor which does bear on a claimant's credibility as to the  
14 extent of the impairment. *Johnson v. Shalala*, 60 F.3d 1428, 1433 (9th Cir. 1995); *see also*  
15 *Tommasetti v. Astrue*, 553 F.3d 1035, 1039 (9th Cir. 2008); *Parra v. Astrue*, 481 F.3d 742,  
16 750-51 (9th Cir. 2007).

17 In all of these ways, the Administrative Law Judge gave reasons, that were  
18 clear and convincing, for why he did not accept Plaintiff's testimony that she was unable  
19 to work. The Administrative Law Judge thus acted appropriately.

20 Plaintiff also asserts that the Administrative Law Judge wrongly concluded  
21 that Plaintiff could perform the jobs of cleaner/housekeeping, electronics worker and shoe  
22 packager. [AR 25] In this Court, Defendant concedes that the Administrative Law Judge  
23 incorrectly included the job of shoe packager as one that a person with Plaintiff's residual  
24 functional capacity could perform. However, as to the other two, the vocational expert's  
25 testimony was a sufficient evidentiary basis for the Administrative Law Judge's  
26 conclusion. *Bayliss v. Barnhart*, 427 F.3d 1211, 1218 (9th Cir. 2005). To the extent that  
27 Plaintiff believes that her testimony conflicted, the Administrative Law Judge was  
28 responsible for resolving conflicts in the testimony.

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

3 DATED: August 22, 2013

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6 RALPH ZAREFSKY  
7 UNITED STATES MAGISTRATE JUDGE  
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