

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

RONALD WILLIAM SKAGGS, JR.,

Plaintiff,

v.

CAROLYN W. COLVIN, Acting  
Commissioner of Social Security  
Administration,

Defendant.

NO: 2:13-CV-0322-TOR

ORDER GRANTING DEFENDANT’S  
MOTION FOR SUMMARY  
JUDGMENT

BEFORE THE COURT are the parties’ cross-motions for summary judgment (ECF Nos. 14 and 18). Plaintiff is represented by Donald C. Bell. Defendant is represented by Erin F. Highland. This matter was submitted for consideration without oral argument. The Court has reviewed the administrative record and the parties’ completed briefing and is fully informed. For the reasons discussed below, the Court grants Defendant’s motion and denies Plaintiff’s motion.

1 **JURISDICTION**

2 The Court has jurisdiction over this case pursuant to 42 U.S.C. § 405(g);  
3 1383(c)(3).

4 **STANDARD OF REVIEW**

5 A district court’s review of a final decision of the Commissioner of Social  
6 Security is governed by 42 U.S.C. § 405(g). The scope of review under §405(g) is  
7 limited: the Commissioner’s decision will be disturbed “only if it is not supported  
8 by substantial evidence or is based on legal error.” *Hill v. Astrue*, 698 F.3d 1153,  
9 1158-59 (9th Cir. 2012) (citing 42 U.S.C. § 405(g)). “Substantial evidence” means  
10 relevant evidence that “a reasonable mind might accept as adequate to support a  
11 conclusion.” *Id.* at 1159 (quotation and citation omitted). Stated differently,  
12 substantial evidence equates to “more than a mere scintilla[,] but less than a  
13 preponderance.” *Id.* (quotation and citation omitted). In determining whether this  
14 standard has been satisfied, a reviewing court must consider the entire record as a  
15 whole rather than searching for supporting evidence in isolation. *Id.*

16 In reviewing a denial of benefits, a district court may not substitute its  
17 judgment for that of the Commissioner. If the evidence in the record “is  
18 susceptible to more than one rational interpretation, [the court] must uphold the  
19 ALJ’s findings if they are supported by inferences reasonably drawn from the  
20 record.” *Molina v. Astrue*, 674 F.3d 1104, 1111 (9th Cir. 2012). Further, a district

1 court “may not reverse an ALJ’s decision on account of an error that is harmless.”  
2 *Id.* at 1111. An error is harmless “where it is inconsequential to the [ALJ’s]  
3 ultimate nondisability determination.” *Id.* at 1115 (quotation and citation omitted).  
4 The party appealing the ALJ’s decision generally bears the burden of establishing  
5 that it was harmed. *Shinseki v. Sanders*, 556 U.S. 396, 409-10 (2009).

### 6 **FIVE-STEP SEQUENTIAL EVALUATION PROCESS**

7 A claimant must satisfy two conditions to be considered “disabled” within  
8 the meaning of the Social Security Act. First, the claimant must be “unable to  
9 engage in any substantial gainful activity by reason of any medically determinable  
10 physical or mental impairment which can be expected to result in death or which  
11 has lasted or can be expected to last for a continuous period of not less than twelve  
12 months.” 42 U.S.C. §§ 423(d)(1)(A); 1382c(a)(3)(A). Second, the claimant’s  
13 impairment must be “of such severity that he is not only unable to do his previous  
14 work[,] but cannot, considering his age, education, and work experience, engage in  
15 any other kind of substantial gainful work which exists in the national economy.”  
16 42 U.S.C. §§ 423(d)(2)(A); 1382c(a)(3)(B).

17 The Commissioner has established a five-step sequential analysis to  
18 determine whether a claimant satisfies the above criteria. *See* 20 C.F.R.  
19 §§ 404.1520(a)(4)(i)-(v); 416.920(a)(4)(i)-(v). At step one, the Commissioner  
20 considers the claimant’s work activity. 20 C.F.R. §§ 404.1520(a)(4)(i);

1 416.920(a)(4)(i). If the claimant is engaged in “substantial gainful activity,” the  
2 Commissioner must find that the claimant is not disabled. 20 C.F.R.  
3 §§ 404.1520(b); 416.920(b).

4 If the claimant is not engaged in substantial gainful activities, the analysis  
5 proceeds to step two. At this step, the Commissioner considers the severity of the  
6 claimant’s impairment. 20 C.F.R. §§ 404.1520(a)(4)(ii); 416.920(a)(4)(ii). If the  
7 claimant suffers from “any impairment or combination of impairments which  
8 significantly limits [his or her] physical or mental ability to do basic work  
9 activities,” the analysis proceeds to step three. 20 C.F.R. §§ 404.1520(c);  
10 416.920(c). If the claimant’s impairment does not satisfy this severity threshold,  
11 however, the Commissioner must find that the claimant is not disabled. *Id.*

12 At step three, the Commissioner compares the claimant’s impairment to  
13 several impairments recognized by the Commissioner to be so severe as to  
14 preclude a person from engaging in substantial gainful activity. 20 C.F.R.  
15 §§ 404.1520(a)(4)(iii); 416.920(a)(4)(iii). If the impairment is as severe or more  
16 severe than one of the enumerated impairments, the Commissioner must find the  
17 claimant disabled and award benefits. 20 C.F.R. §§ 404.1520(d); 416.920(d).

18 If the severity of the claimant’s impairment does meet or exceed the severity  
19 of the enumerated impairments, the Commissioner must pause to assess the  
20 claimant’s “residual functional capacity.” Residual functional capacity (“RFC”),

1 defined generally as the claimant's ability to perform physical and mental work  
2 activities on a sustained basis despite his or her limitations (20 C.F.R.  
3 §§ 404.1545(a)(1); 416.945(a)(1)), is relevant to both the fourth and fifth steps of  
4 the analysis.

5 At step four, the Commissioner considers whether, in view of the claimant's  
6 RFC, the claimant is capable of performing work that he or she has performed in  
7 the past ("past relevant work"). 20 C.F.R. §§ 404.1520(a)(4)(iv);  
8 416.920(a)(4)(iv). If the claimant is capable of performing past relevant work, the  
9 Commissioner must find that the claimant is not disabled. 20 C.F.R.  
10 §§ 404.1520(f); 416.920(f). If the claimant is incapable of performing such work,  
11 the analysis proceeds to step five.

12 At step five, the Commissioner considers whether, in view of the claimant's  
13 RFC, the claimant is capable of performing other work in the national economy.  
14 20 C.F.R. §§ 404.1520(a)(4)(v); 416.920(a)(4)(v). In making this determination,  
15 the Commissioner must also consider vocational factors such as the claimant's age,  
16 education and work experience. *Id.* If the claimant is capable of adjusting to other  
17 work, the Commissioner must find that the claimant is not disabled. 20 C.F.R.  
18 §§ 404.1520(g)(1); 416.920(g)(1). If the claimant is not capable of adjusting to  
19 other work, the analysis concludes with a finding that the claimant is disabled and  
20 is therefore entitled to benefits. *Id.*

1 The claimant bears the burden of proof at steps one through four above.  
2 *Lockwood v. Comm’r of Soc. Sec. Admin.*, 616 F.3d 1068, 1071 (9th Cir. 2010). If  
3 the analysis proceeds to step five, the burden shifts to the Commissioner to  
4 establish that (1) the claimant is capable of performing other work; and (2) such  
5 work “exists in significant numbers in the national economy.” 20 C.F.R.  
6 §§ 404.1560(c); 416.960(c)(2); *Beltran v. Astrue*, 700 F.3d 386, 389 (9th Cir.  
7 2012).

### 8 **ALJ’S FINDINGS**

9 Plaintiff filed applications for disability insurance benefits and supplemental  
10 security income disability benefits on December 13, 2007, alleging a disability  
11 onset date of September 15, 2005. Tr. 149-151, 152-154. These applications were  
12 denied initially and upon reconsideration, and Plaintiff requested a hearing. Tr. 93-  
13 96, 97-98, 99-100, 101-02. A hearing was held before an Administrative Law  
14 Judge on November 2, 2009. Tr. 48-88. At the hearing, Plaintiff amended his  
15 alleged onset date to May 1, 2006. Tr. 57-58. The ALJ rendered a decision  
16 denying Plaintiff benefits on February 23, 2010. Tr. 27-42. The Appeals Council  
17 denied Plaintiff’s request for review, Tr. 1–7, and after the Plaintiff filed an action  
18 in this Court, the parties stipulated to a remand of the matter for further  
19 administrative proceedings. Tr. 849-851. The Appeals Council remanded the  
20 matter to an ALJ to complete the administrative record and combine a subsequent

1 claim filed in August 2011, for concurrent benefits. Tr. 836-838. After a  
2 supplemental hearing, Tr. 785-833, the ALJ issued an unfavorable decision finding  
3 Plaintiff not disabled. Tr. 747-769.

4 The ALJ found that Plaintiff met the insured status requirements of Title II  
5 of the Social Security Act through March 31, 2008. Tr. 750. At step one, the ALJ  
6 found that Plaintiff had not engaged in substantial gainful activity since May 1,  
7 2006, the amended alleged onset date. *Id.* At step two, the ALJ found that  
8 Plaintiff had severe impairments consisting of status post left knee arthroscopic  
9 partial medial meniscectomy and anterior cruciate ligament reconstruction; carpal  
10 tunnel syndrome status post bilateral release surgeries; cervical degenerative disc  
11 disease and degenerative joint disease with C4-5 and C5-6 foraminal narrowing;  
12 thoracic and lumbar degenerative disc disease and degenerative joint disease  
13 without stenosis or foraminal narrowing; bipolar disorder; pain disorder; antisocial  
14 personality disorder; and polysubstance abuse history with ongoing alcohol and  
15 marijuana dependence. Tr. 750-51.

16 At step three, the ALJ found that Plaintiff's severe impairments did not meet  
17 or medically equal a listed impairment. Tr. 751-52. The ALJ then determined that  
18 Plaintiff had the residual functional capacity to:

19 [P]erform light work as defined in 20 CFR 404.1567(b) and  
20 416.967(b). The claimant is able to occasionally climb ramps and  
stairs, balance, crouch, crawl, stoop, and kneel. The claimant is not  
able to climb ladders, ropes, and scaffolds. The [claimant] should

1 avoid even moderate exposure to vibrations or hazards such has  
2 unprotected heights and moving machinery. The claimant is capable  
3 of no more than SVP 3 level tasks (the low end of semi-skilled). The  
claimant is capable of superficial contact with the general [public] and  
no cooperative teamwork with coworkers.

4 Tr. 752-53 (bracketed words inserted). At step four, the ALJ found that Plaintiff is  
5 unable to perform any past relevant work. Tr. 767. At step five, after considering  
6 the Plaintiff's age, education, work experience, and RFC, the ALJ found that there  
7 are jobs that exist in significant numbers in the national economy that the claimant  
8 can perform, such as mail clerk, laundry sorter, and bottling line attendant. Tr. 767-  
9 68. In light of the step five findings, the ALJ concluded that Plaintiff was not  
10 disabled under the Social Security Act and denied his claims on that basis. Tr.  
11 768-69.

12 Plaintiff filed exceptions with the Appeals Council, Tr. 739-43, but the  
13 Appeals Council never made a decision regarding the appeal. The decision of the  
14 ALJ is thus, the final decision of the Commissioner. Plaintiff has timely filed a  
15 civil action in this Court to review that decision.

## 16 ISSUES

17 Plaintiff essentially raises four issues for review:

- 18 1. Whether the ALJ properly evaluated the medical source opinions;
- 19 2. Whether the ALJ erred in rejecting Plaintiff's credibility  
20 concerning his subjective complaints;



- 1 3. Whether the ALJ properly evaluated Plaintiff’s Global Assessment  
of Functioning (GAF) scores; and
- 2
- 3 4. Whether the ALJ’s hypothetical given to the vocational expert  
properly included all of Plaintiff’s mental and physical limitations  
at step five of the analysis.
- 4

5 ECF No. 14 at 16-17.

## 6 DISCUSSION

### 7 A. Opinions of Medical Sources

8 There are three types of physicians: “(1) those who treat the claimant  
9 (treating physicians); (2) those who examine but do not treat the claimant  
10 (examining physicians); and (3) those who neither examine nor treat the claimant  
11 [but who review the claimant's file] (nonexamining [or reviewing] physicians).”  
12 *Holohan v. Massanari*, 246 F.3d 1195, 1201-02 (9th Cir. 2001) (citations omitted).  
13 Generally, the opinion of a treating physician carries more weight than the opinion  
14 of an examining physician, and the opinion of an examining physician carries more  
15 weight than the opinion of a reviewing physician. *Id.* at 1195, 1202. In addition,  
16 the Commissioner’s regulations give more weight to opinions that are explained  
17 than to opinions that are not, and to the opinions of specialists on matters relating  
18 to their area of expertise over the opinions of non-specialists. *Id.* (citations  
19 omitted).

20

1           If a treating or examining physician’s opinion is uncontradicted, an ALJ may  
2 reject it only by offering “clear and convincing reasons that are supported by  
3 substantial evidence.” *Bayliss v. Barnhart*, 427 F.3d 1211, 1216 (9th Cir. 2005).  
4 “If a treating or examining doctor’s opinion is contradicted by another doctor’s  
5 opinion, an ALJ may only reject it by providing specific and legitimate reasons  
6 that are supported by substantial evidence.” *Id.* (citing *Lester v. Chater*, 81 F.3d  
7 821, 830-831 (9th Cir. 1995)). Regardless of the source, an ALJ need not accept a  
8 physician’s opinion that is “brief, conclusory and inadequately supported by  
9 clinical findings.” *Bray v. Comm’r of Soc. Sec. Admin.*, 554 F.3d 1219, 1228 (9th  
10 Cir. 2009) (quotation and citation omitted).

11           **1. Opinion of Ms. Newman, Dr. Goodwin, and Dr. Arnold**

12           Plaintiff claims that the ALJ improperly rejected the opinions of Caitlin  
13 Newman, MS, NCC, James Goodwin, Psy.D, and John Arnold, Ph.D. ECF No. 14  
14 at 17-18. Each of these examining mental health professionals opined that Plaintiff  
15 had moderate, marked, and severe limitations in cognitive and social functioning,  
16 at various times.

17           The ALJ assigned little weight to these opinions and provided specific and  
18 legitimate reasons for doing so. Preliminarily, the ALJ accorded less weight to Ms.  
19 Newman’s evaluations as she is not a psychologist. Tr. 766. As a nationally  
20 certified counselor, Ms. Newman is not considered an “acceptable medical source”

1 within the meaning of 20 C.F.R. § 416.913(a); SSR 06-03p, 2006 WL 2329939 at  
2 \*2. Instead, Ms. Newman qualifies as an “other source” as defined in 20 C.F.R.  
3 § 416.913(d). *See Molina v. Astrue*, 674 F.3d 1104, 1111 (9th Cir. 2012). Because  
4 Ms. Newman is an “other source” rather than an “acceptable medical source,” her  
5 opinions about the nature and severity of Plaintiff’s impairments are not entitled to  
6 controlling weight. SSR 06-03p, 2006 WL 2329939 at \*2; 20 C.F.R. §  
7 416.927(a)(2). The ALJ need only have provided “germane reasons” for rejecting  
8 Ms. Newman’s opinions. *Molina*, 674 F.3d at 1111.

9 First, the ALJ discounted these examining mental health professionals’  
10 opinions because there were based primarily on the Plaintiff’s self-reports. Tr.  
11 766. This is a specific and legitimate reason because the ALJ also discounted  
12 Plaintiff’s subjective complaints, as explained in more detail below.

13 Second, the ALJ noted that the examining providers did not provide detailed  
14 explanations for their opinions. Tr. 766. An ALJ need not accept an opinion that is  
15 brief, conclusory, inadequately supported by clinical findings, or based on the  
16 Plaintiff’s incredible testimony. *Thomas v. Barnhart*, 278 F.3d 947, 957 (9th Cir.  
17 2002). The record supports the ALJ’s observation about the lack of detailed  
18 explanation for their severe findings of Plaintiff’s incapacity.

19 Last, the ALJ gave little weight to the opinions because they were  
20 “inconsistent with activities of daily living showing [Plaintiff’s] ability to perform

1 at least SVP [Specific Vocational Preparation] 3 tasks and adequate social  
2 interactions to function at the level described in the above residual functional  
3 capacity.” Tr. 766.

4 Evidence about daily activities is properly considered in making a credibility  
5 determination. *Fair v. Bowen*, 885 F.2d 597, 603 (9th Cir. 1989). However, a  
6 claimant need not be utterly incapacitated to be eligible for benefits. *Id.* Many  
7 activities are not easily transferable to what may be the more grueling environment  
8 of the workplace, where it might not be possible to rest or take medication. *Id.*  
9 (citation omitted). But, there are two grounds for using daily activities to form the  
10 basis for an adverse credibility determination. *See Orn v. Astrue*, 495 F.3d 625,  
11 639 (9th Cir. 2007). First, the daily activities may just contradict claimant’s other  
12 testimony. *Id.*; *Molina v. Astrue*, 674 F.3d 1104, 1113 (9th Cir. 2012) (“whether  
13 the claimant engages in daily activities inconsistent with the alleged symptoms”)  
14 (citation omitted). Second, daily activities may be grounds for an adverse  
15 credibility finding if a claimant is able to spend a substantial part of his day  
16 engaged in pursuits involving the performance of physical functions that are  
17 transferable to a work setting. *Orn*, 495 F.3d at 639. Of course, “the ALJ must  
18 make ‘specific findings relating to [the daily] activities’ and their transferability to  
19 conclude that a claimant's daily activities warrant [this type of] an adverse  
20 credibility determination.” *Id.*

1 Here, the ALJ clearly used both bases to discredit Plaintiff's credibility. The  
2 ALJ cited Plaintiff's activities of daily living, among other reasons not here  
3 challenged, for discounting his allegation of total disability. Tr. 762-63. For  
4 instance, the ALJ found Plaintiff is:

5 able to maintain personal hygiene and grooming, visit his parents  
6 every day, visit with neighbors, help clean his mother's house, help  
7 clean his girlfriend's house, cook simple foods, launder his clothes,  
8 shop with his mother for groceries, go to AA meetings and church, go  
9 to Bible study, and read and watch television for entertainment. He  
10 spends up to six or seven hours helping his mother. The claimant was  
11 attending college full-time in 2010. Per his testimony, the claimant  
12 cuts and sells wood and he earns money on recyclables. Cutting  
13 requires using a chainsaw (which he admitted doing in August 2010),  
14 suggesting good strength and use of the upper extremities and back.  
15 The claimant was doing a lot of work on his mother "mini-orchard in  
16 September 2011 and in November 2011 he said the orchard work was  
17 keeping him busy, again requiring good use of the upper extremities  
18 and requiring standing and walking for long periods of time.

19 Tr. 762. These are just some of the detailed findings the ALJ made that are  
20 supported by substantial evidence in the record. An ALJ's finding that a doctor's  
opinion is inconsistent with the claimant's own admitted daily activities is a  
specific and legitimate reason for rejecting the opinion. *See Tommasetti v. Astrue*,  
533 F.3d 1035, 1041 (9th Cir. 2008) (not improper to reject an opinion presenting  
inconsistencies between the opinion and the medical record or a claimant's daily  
activities).

1 The Court concludes the ALJ provided specific and legitimate reasons for  
2 rejecting the opinions of these examining professionals.

### 3 **2. Opinion of Dr. Mabee**

4 Plaintiff contends the ALJ failed to provide adequate reasons for rejecting  
5 the opinion of Dr. Mabee, a medical expert. The ALJ disagreed with Dr. Mabee's  
6 opinion as to Plaintiff's mental RFC, precisely his findings that Plaintiff had  
7 moderate limitations in performing activities within a schedule, maintaining  
8 regular attendance, completing a normal workday and workweek without  
9 interruptions, and performing at a consistent pace. Tr. 766, 800-01. The ALJ  
10 found no evidence in Plaintiff's treatment history that Plaintiff had "moderate"  
11 limitation in these areas:

12 However, in review the claimant's treatment history, there is no  
13 evidence the claimant has a moderate limitation in performing  
14 activities within a schedule, maintaining, regular attendance, and  
15 being punctual or completing a normal workday and workweek  
16 without interruptions from psychologically based symptoms and  
17 performing at a consistent pace without an unreasonable number and  
18 length of rest periods. Throughout the claimant's lengthy treatment  
19 history, he has consistently maintained and attended appointments. As  
20 far as interacting with the public, coworkers, and supervisors, the  
claimant, through his interactions with medical and mental health  
professionals, has demonstrated an ability to interact adequately in  
social contexts.

1 Tr. 765-66. A medical opinion may be rejected when it is “unsupported by the  
2 record as a whole.” *Batson v. Comm’r of Soc. Sec. Admin.*, 359 F3d 1190, 1195  
3 (9th Cir. 2004).

4 While the record in this case is voluminous, the ALJ thoroughly evaluated  
5 and weighed the evidence. It is this Court’s duty to consider the record as a whole  
6 and determine if the ALJ’s findings are supported by substantial evidence. Here,  
7 substantial evidence supports the ALJ’s conclusion.

#### 8 **B. Credibility of Plaintiff’s Subjective Complaints**

9 Plaintiff argues the ALJ improperly discredited his testimony regarding the  
10 severity of his pain. ECF No. 14 at 19. Plaintiff reasons that he “had several  
11 surgeries, and the record contains ample instances of imaging to indicate objective  
12 sources of his pain. . . There is no evidence of malingering.” *Id.*

13 In order to find Plaintiff’s testimony unreliable, the ALJ is required to make  
14 “a credibility determination with findings sufficiently specific to permit the court  
15 to conclude that the ALJ did not arbitrarily discredit claimant's testimony.” *Thomas*  
16 *v. Barnhart*, 278 F.3d 947, 958 (9th Cir. 2002). An ALJ must perform a two-step  
17 analysis when deciding whether to accept a claimant's subjective symptom  
18 testimony. *Smolen v. Chater*, 80 F.3d 1273, 1281 (9th Cir. 1996). The first step is a  
19 threshold test from *Cotton v. Bowen* requiring the claimant to “produce medical  
20 evidence of an underlying impairment which is reasonably likely to be the cause of

1 the alleged pain.” 799 F.2d 1403, 1407 (9th Cir. 1986); *see also Bunnell v.*  
2 *Sullivan*, 947 F.2d 341, 343 (9th Cir. 1991). “Once a claimant meets the *Cotton* test  
3 and there is no affirmative evidence suggesting she is malingering, the ALJ may  
4 reject the claimant's testimony regarding the severity of her symptoms only if [the  
5 ALJ] makes specific findings stating clear and convincing reasons for doing so.”  
6 *Smolen*, 80 F.3d at 1283–84 (citing *Dodrill v. Shalala*, 12 F.3d 915, 918 (9th Cir.  
7 1993)). In weighing the claimant’s credibility, the ALJ may consider many factors,  
8 including ““(1) ordinary techniques of credibility evaluation, such as the claimant's  
9 reputation for lying, prior inconsistent statements concerning the symptoms, and  
10 other testimony by the claimant that appears less than candid; (2) unexplained or  
11 inadequately explained failure to seek treatment or to follow a prescribed course of  
12 treatment; and (3) the claimant's daily activities.” *Tommasetti v. Astrue*, 533 F.3d  
13 1035, 1039 (9th Cir. 2008) (quoting *Smolen*, 80 F.3d at 1284). If the ALJ's finding  
14 is supported by substantial evidence, the court may not engage in second-guessing.  
15 *Tommasetti*, 533 F.3d at 1039. “Contradiction with the medical record is a  
16 sufficient basis for rejecting the claimant's subjective testimony.” *Carmickle v.*  
17 *Comm'r, Soc. Sec. Admin.*, 533 F.3d 1155, 1161 (9th Cir. 2008).

18 Here, the ALJ first found that Plaintiff’s testimony was not consistent with  
19 the objective medical evidence. Tr. 761-765. The ALJ’s lengthy recitation of the  
20 medical evidence explains that while Plaintiff underwent wrist surgeries and knee



1 surgery, he recovered well and regained good strength and full range of motion.

2 See e.g., Tr. 759, 761, 426.

3 Next, the ALJ cited to Plaintiff's inconsistent statements regarding his pain,  
4 even when taking narcotic pain medication. Tr. 761. This, combined with  
5 Plaintiff's drug-seeking behavior, Tr. 764, and his inconsistent statements  
6 regarding drug and alcohol abuse, Tr. 763, are all clear and convincing reasons for  
7 discounting Plaintiff's credibility.

8 Plaintiff's inconsistent work history and activities of daily living are two  
9 more clear and convincing reasons for discounting Plaintiff's credibility. Tr. 762.

10 The ALJ did not err in discrediting Plaintiff's testimony and subjective  
11 reports regarding his pain.

### 12 **C. ALJ's Evaluation of Plaintiff's GAF Scores**

13 Plaintiff claims that the ALJ erred by summarily rejecting the Global  
14 Assessment of Functioning (GAF) scores in the record. ECF No. 14 at 19-20. The  
15 ALJ found that an individual's GAF score is not equivalent to a finding of  
16 disability and that the Plaintiff is capable of performing work as described in the  
17 residual functional capacity quoted above. Tr. 767.

18 Here, the ALJ gave little weight to the various GAF scores provided  
19 throughout the record. Tr. 766. The ALJ thoroughly explained the deficiencies  
20 associated with using the GAF score in the occupational functioning context. *Id.*

1 Further, the ALJ recognized that the score can be based on the individual's self-  
2 reported symptomatology, which may also be undermined by an individual's lack  
3 of credibility. *Id.* As discussed above, that was the case here. The GAF score (as  
4 a method for evaluating the severity of impairments) has been specifically rejected  
5 by the Social Security Administration. *Cowen v. Comm'r of Soc. Sec.*, 400  
6 Fed.Appx. 275, 277 n.1 (9th Cir. 2010) (unpublished) (citing 65 Fed.Reg. 50746,  
7 50764–65 (Aug. 21, 2000)).

8 Thus, the ALJ was not required to assign controlling weight to Plaintiff's  
9 GAF scores in assessing the severity of his mental health symptoms.

#### 10 **D. ALJ's Five Step Analysis**

11 Plaintiff argues that the ALJ did not conduct a proper step five finding on  
12 the ground that the hypothetical given to the vocational expert was incomplete.  
13 ECF No. 14 at 20.

14 This argument is derivative of Plaintiff's arguments discussed above. Since,  
15 the ALJ properly discredited Plaintiff's subjective complaints, properly evaluated  
16 the medical evidence, and substantial evidence supports the ALJ's findings, no  
17 error has been shown. Defendant is entitled to summary judgment.

#### 18 **IT IS HEREBY ORDERED:**

- 19 1. Plaintiff's Motion for Summary Judgment (ECF No. 14) is **DENIED**.

1 2. Defendant's Motion for Summary Judgment (ECF No. 18) is

2 **GRANTED.**

3 The District Court Executive is hereby directed to file this Order, enter  
4 Judgment for Defendant, provide copies to counsel, and **CLOSE** the file.

5 **DATED** September 29, 2014.



8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20

A handwritten signature in blue ink that reads "Thomas O. Rice".

THOMAS O. RICE  
United States District Judge