

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jun 05, 2023

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ADRIENNE M. C.,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

NO: 2:22-CV-197-RMP

ORDER DENYING JUDGMENT TO
PLAINTIFF AND GRANTING
JUDGMENT IN FAVOR OF THE
COMMISSIONER

BEFORE THE COURT, without oral argument, are cross-motions for summary judgment from Plaintiff Adrienne M. C.¹, ECF No. 10, and Defendant the Commissioner of Social Security (the “Commissioner”), ECF No. 11. Plaintiff seeks judicial review, pursuant to 42 U.S.C. §§ 405(g) of the Commissioner’s partial denial of her claim for Social Security Income (“SSI”) under Title XVI of the Social Security Act (the “Act”). *See* ECF No. 10 at 1–2.

¹ In the interest of protecting Plaintiff’s privacy, the Court uses Plaintiff’s first name and middle and last initials.

1 Having considered the parties' briefs, the administrative record, and the
2 applicable law, the Court is fully informed. For the reasons set forth below, the
3 Court denies Plaintiff's request for judgment and remand in her Opening Brief and
4 directs entry of judgment in favor of the Commissioner.

5 **BACKGROUND**

6 *General Context*

7 Plaintiff applied for SSI on approximately July 18, 2019, alleging an onset
8 date of September 1, 2018. Administrative Record ("AR")² 15, 247–53. Plaintiff
9 was 32 years old on the alleged disability onset date and asserted that she was unable
10 to work due anxiety and borderline personality disorder. *See* AR 276. Plaintiff's
11 application was denied initially and upon reconsideration, and Plaintiff requested a
12 hearing. *See* AR 176.

13 On March 23, 2021, Plaintiff appeared by telephone, represented by her
14 attorney Jay Manon, at a hearing held by Administrative Law Judge ("ALJ")
15 MaryAnn Lunderman from Wenatchee, Washington. AR 60–63. The ALJ heard
16 from Plaintiff as well as vocational expert ("VE") Michael Swanson. AR 60–92.
17 ALJ Lunderman issued an unfavorable decision on May 21, 2021, and the Appeals
18 Council denied review. AR 1–6, 15–26.

19
20 _____
21 ² The Administrative Record is filed at ECF No. 10.

1 *ALJ's Decision*

2 Applying the five-step evaluation process, ALJ Lunderman found:

3 **Step one:** Plaintiff has not engaged in substantial gainful activity since July
4 18, 2019, the application date. AR 17.

5 **Step two:** Plaintiff has the following severe impairments: borderline
6 personality disorder; posttraumatic stress disorder; moderate major depressive
7 disorder; and anxiety disorder. AR 18 (citing 20 C.F.R. § 416.920(c)). The ALJ
8 found that Plaintiff has the following medically determinable, but non-severe,
9 impairments: gastroesophageal reflux disease; lumbago; and cervical dysplasia; and
10 obesity. AR 18.

11 **Step three:** The ALJ concluded that Plaintiff does not have an impairment, or
12 combination of impairments, that meets or medically equals the severity of one of
13 the listed impairments in 20 C.F.R. Part 404, Subpart P, Appendix 1 (20 C.F.R. §§
14 416.920(d), 416.925, and 416.926). AR 19. In reaching this conclusion, the ALJ
15 addressed the “paragraph B” criteria with respect to listings 12.04 (depressive,
16 bipolar, and related disorders), 12.06 (anxiety and obsessive-compulsive disorders),
17 12.08 (personality and impulse-control disorders), and 12.15 (trauma- and stressor-
18 related disorders) and found that Plaintiff’s impairments do not result in one extreme
19 limitation or two marked limitations in a broad area of functioning. AR 19.

1 The ALJ found that Plaintiff is moderately limited in: understanding,
2 remembering, or applying information; interacting with others; concentrating,
3 persisting, or maintaining pace; and in adapting or managing oneself. AR 19. The
4 ALJ cited to portions of the record explaining her findings. AR 19.

5 The ALJ also memorialized her finding that the evidence in Plaintiff’s record
6 fails to satisfy the “paragraph C” criteria. AR 20.³ The ALJ reasoned that, first, “the
7 evidence does not show that the claimant relies, on an ongoing basis, upon medical
8 treatment, mental health therapy, psychosocial support(s), or a highly structured
9 setting(s), to diminish the symptoms and signs of the claimant’s mental disorder;
10 and, second, “the evidence does not show that, despite any diminished symptoms
11 and signs, [Plaintiff] has achieved only marginal adjustment or minimal capacity to
12 adapt to changes in environment or to demands not part of daily life.” AR 20.

13 **Residual Functional Capacity (“RFC”):** The ALJ found that Plaintiff can
14 perform “a full range of work at all exertional levels, but with the following
15 nonexertional limitations: assigned work must be limited to simple, unskilled tasks
16

17 ³ The Paragraph C criteria requires: a “serious and persistent” mental disorder with
18 a “medically documented history” of at least two years, and evidence of (1)
19 ongoing medical treatment that diminishes the symptoms and signs of your
20 disorder; and (2) marginal adjustment, meaning the claimant has “minimal capacity
21 to adapt to changes in [their] environment or to demands that are not already part
of [their] daily life.” 20 C.F.R. § 404, Subpt. P. App. 1 §§ 12.02C, 12.04C,
12.06C.

1 with a SVP of 1 or 2 and a Reasoning Level of 1 or 2; assigned tasks must be
2 learned in 30 days or less or by brief demonstration; there must be minimal change
3 in the task as assigned; there must be minimal change in work locations and
4 procedures; while tasks must be performed primarily individually, they can
5 occasionally be performed with a limited number of coworkers, but the limit should
6 be no more than three other coworkers; the assigned work may require occasional
7 contact with the public; and there must be no more than occasional change in the
8 work setting and the assigned tasks must require no independent goal setting.” AR
9 20.

10 In determining Plaintiff’s RFC, the ALJ found that Plaintiff’s “medically
11 determinable impairments could reasonably be expected to cause the alleged
12 symptoms; however, [Plaintiff’s] statements concerning the intensity, persistence
13 and limiting effects of these symptoms are not entirely consistent with the medical
14 evidence and other evidence in the record for the reasons explained in this decision.”
15 AR 21.

16 **Step four:** The ALJ found that Plaintiff has no past relevant work. AR 24
17 (citing 20 C.F.R. § 416.965).

1 **Step five:** The ALJ found that Plaintiff has at least a high school education
2 and was 33 years old⁴, which is defined as a younger individual (age 18-49), on the
3 alleged disability onset date. AR 24 (citing 20 C.F.R. § 416.963). The ALJ found
4 that transferability of job skills is not an issue because Plaintiff does not have past
5 relevant work. AR 24 (citing 20 C.F.R. § 416.968). The ALJ found that given
6 Plaintiff's age, education, work experience, and RFC, Plaintiff can make a
7 successful adjustment to other work that exists in significant numbers in the national
8 economy. AR 24. Specifically, the ALJ recounted that the vocational expert
9 identified the following representative occupations that Plaintiff would be able to
10 perform with the RFC:

11 A. Kitchen Helper (DOT1 No. 318.687-010), which is considered
12 medium exertional work that is performed at the unskilled level with a
SVP2 of two, a Reasoning Level of two, and of which there are
approximately 498,000 jobs nationwide;

13 B. Laundry Worker (DOT No. 361.685-018), which is considered
14 medium exertional work that is performed at the unskilled level with a
SVP of two, a Reasoning Level of two, and of which there are
approximately 198,000 jobs nationwide;

15 C. Auto Detailer (DOT No. 915.687-034), which is considered medium
16 exertional work that is performed at the unskilled level with a SVP of
two, a Reasoning Level of two, and of which there are approximately
72,000 jobs nationwide;

17 D. Electrical Accessories Assembler (DOT No. 729.687-010), which is
18 considered light exertional work that is performed at the unskilled level
with a SVP of two, a Reasoning Level of two, and of which there are
approximately 7,400 jobs nationwide;

19 _____
20 ⁴ By the Court's calculation, Plaintiff was 32 years old, but this difference in age is
immaterial as both 32 years and 33 years are within the same category.

1 E. Café Attendant (DOT No. 311.677-010), which is considered light
2 exertional work that is performed at the unskilled level with a SVP of
two, a Reasoning Level of two, and of which there are approximately
3 60,000 jobs nationwide; and

4 F. Marketing Clerk (DOT No. 209.587-034), which is considered light
exertional work that is performed at the unskilled level with a SVP of
two, a Reasoning Level of two, and of which there are approximately
5 311,000 jobs nationwide.

6 AR 25. The ALJ concluded that Plaintiff had not been disabled within the meaning
7 of the Act at any time since filing her application on July 18, 2019. AR 25.

8 Through counsel Jordan Goddard, Plaintiff sought review of the ALJ's
9 unfavorable decision in this Court. ECF No. 1.

10 LEGAL STANDARD

11 *Standard of Review*

12 Congress has provided a limited scope of judicial review of the
13 Commissioner's decision. 42 U.S.C. § 405(g). A court may set aside the
14 Commissioner's denial of benefits only if the ALJ's determination was based on
15 legal error or not supported by substantial evidence. *See Jones v. Heckler*, 760 F.2d
16 993, 995 (9th Cir. 1985) (citing 42 U.S.C. § 405(g)). "The [Commissioner's]
17 determination that a claimant is not disabled will be upheld if the findings of fact are
18 supported by substantial evidence." *Delgado v. Heckler*, 722 F.2d 570, 572 (9th Cir.
19 1983) (citing 42 U.S.C. § 405(g)). Substantial evidence is more than a mere
20 scintilla, but less than a preponderance. *Sorenson v. Weinberger*, 514 F.2d 1112,
21 1119 n.10 (9th Cir. 1975); *McCallister v. Sullivan*, 888 F.2d 599, 601-02 (9th Cir.

1 1989). Substantial evidence “means such evidence as a reasonable mind might
2 accept as adequate to support a conclusion.” *Richardson v. Perales*, 402 U.S. 389,
3 401 (1971) (citations omitted). “[S]uch inferences and conclusions as the
4 [Commissioner] may reasonably draw from the evidence” also will be upheld. *Mark*
5 *v. Celebrezze*, 348 F.2d 289, 293 (9th Cir. 1965). On review, the court considers the
6 record, not just the evidence supporting the decisions of the Commissioner.
7 *Weetman v. Sullivan*, 877 F.2d 20, 22 (9th Cir. 1989).

8 A decision supported by substantial evidence still will be set aside if the
9 proper legal standards were not applied in weighing the evidence and making a
10 decision. *Browner v. Sec’y of Health and Human Servs.*, 839 F.2d 432, 433 (9th Cir.
11 1988). Thus, if there is substantial evidence to support the administrative findings,
12 or if there is conflicting evidence that will support a finding of either disability or
13 nondisability, the finding of the Commissioner is conclusive. *Sprague v. Bowen*,
14 812 F.2d 1226, 1229–30 (9th Cir. 1987).

15 ***Definition of Disability***

16 The Social Security Act defines “disability” as the “inability to engage in any
17 substantial gainful activity by reason of any medically determinable physical or
18 mental impairment which can be expected to result in death, or which has lasted or
19 can be expected to last for a continuous period of not less than 12 months.” 42
20 U.S.C. § 423(d)(1)(A). The Act also provides that a claimant shall be determined to
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1 be under a disability only if the impairments are of such severity that the claimant is
2 not only unable to do their previous work, but cannot, considering the claimant's
3 age, education, and work experiences, engage in any other substantial gainful work
4 which exists in the national economy. 42 U.S.C. § 423(d)(2)(A). Thus, the
5 definition of disability consists of both medical and vocational components. *Edlund*
6 *v. Massanari*, 253 F.3d 1152, 1156 (9th Cir. 2001).

7 ***Sequential Evaluation Process***

8 The Commissioner has established a five-step sequential evaluation process
9 for determining whether a claimant is disabled. 20 C.F.R. § 416.920. Step one
10 determines if they are engaged in substantial gainful activities. If the claimant is
11 engaged in substantial gainful activities, benefits are denied. 20 C.F.R. §
12 416.920(a)(4)(i).

13 If the claimant is not engaged in substantial gainful activities, the decision
14 maker proceeds to step two and determines whether the claimant has a medically
15 severe impairment or combination of impairments. 20 C.F.R. § 416.920(a)(4)(ii). If
16 the claimant does not have a severe impairment or combination of impairments, the
17 disability claim is denied.

18 If the impairment is severe, the evaluation proceeds to the third step, which
19 compares the claimant's impairment with listed impairments acknowledged by the
20 Commissioner to be so severe as to preclude any gainful activity. 20 C.F.R. §
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1 416.920(a)(4)(iii); *see also* 20 C.F.R. § 404, Subpt. P, App. 1. If the impairment
2 meets or equals one of the listed impairments, the claimant is conclusively presumed
3 to be disabled.

4 If the impairment is not one conclusively presumed to be disabling, the
5 evaluation proceeds to the fourth step, which determines whether the impairment
6 prevents the claimant from performing work that they have performed in the past. If
7 the claimant can perform their previous work, the claimant is not disabled. 20
8 C.F.R. § 416.920(a)(4)(iv). At this step, the claimant's RFC assessment is
9 considered.

10 If the claimant cannot perform this work, the fifth and final step in the process
11 determines whether the claimant is able to perform other work in the national
12 economy considering their residual functional capacity and age, education, and past
13 work experience. 20 C.F.R. § 416.920(a)(4)(v); *Bowen v. Yuckert*, 482 U.S. 137,
14 142 (1987).

15 The initial burden of proof rests upon the claimant to establish a prima facie
16 case of entitlement to disability benefits. *Rhinehart v. Finch*, 438 F.2d 920, 921 (9th
17 Cir. 1971); *Meanel v. Apfel*, 172 F.3d 1111, 1113 (9th Cir. 1999). The initial burden
18 is met once the claimant establishes that a physical or mental impairment prevents
19 them from engaging in their previous occupation. *Meanel*, 172 F.3d at 1113. The
20 burden then shifts, at step five, to the Commissioner to show that (1) the claimant

1 can perform other substantial gainful activity, and (2) a “significant number of jobs
2 exist in the national economy” that the claimant can perform. *Kail v. Heckler*, 722
3 F.2d 1496, 1498 (9th Cir. 1984).

4 **ISSUES ON APPEAL**

5 The parties’ motions raise the following issues regarding the ALJ’s decision:

- 6 1. Did the ALJ erroneously discount Plaintiff’s subjective complaints?
- 7 2. Did the ALJ erroneously assess the medical source opinions?
- 8 3. If the Court finds error by the ALJ, what is the appropriate remedy?

9 ***Subjective Symptom Testimony***

10 Plaintiff argues that the ALJ failed to provide specific, clear, and convincing
11 reasons for discounting Plaintiff’s testimony and instead merely summarized the
12 medical evidence. ECF Nos. 10 at 4–5; 12 at 2 (citing AR 21–22).

13 The Commissioner responds that an ALJ is permitted to find a claimant’s
14 allegations unreliable based on inconsistency with the medical record. ECF No. 11
15 at 6 (citing *Smartt v. Kijakazi*, 53 F.4th 489, 498 (9th Cir. 2022)). The
16 Commissioner continues, “The ALJ thus explained that Plaintiff’s allegations were
17 unreliable because they were ‘inconsistent with the objective medical evidence.’”
18 *Id.* (quoting AR 21). The Commissioner argues that the ALJ legitimately discounted
19 Plaintiff’s allegation that she struggles with memory, concentration, and task
20 completion by “point[ing] out that mental status examinations were largely benign
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1 and contradicted these allegations.” *Id.* (citing AR 21–22, 403 (clinician reporting
2 Plaintiff was alert and oriented, with normal thought content), 471 (reporting fair
3 memory), 486 (reporting “grossly normal memory” and “appropriate interactions
4 and questions”), 641 (“Memory: Good”), and 691 (reporting fair memory). The
5 Commissioner further submits that the ALJ relied on evidence in the record to
6 discount Plaintiff’s allegation that she has problems getting along with others. *Id.*
7 (citing AR 21, 22, 403 (“normal” affect and “good eye contact”), 471 (“Behavior:
8 Appropriate”), 486 (“normal affect, appropriate interactions and question”), 540
9 (“[c]ooperative, appropriate mood and affect.”), 558 (showing cooperative
10 behavior), 641 (displaying appropriate behavior), 691 (same). The Commissioner
11 further cites to portions of the record that support the ALJ’s finding that the record
12 showed Plaintiff’s symptoms were effectively controlled with medication. *Id.* at 7
13 (citing AR 21–22, 373, 474, 693). The Commissioner asserts that “[e]ven when an
14 agency explains its decision with less than ideal clarity, [the reviewing court] must
15 uphold it if the agency’s path may reasonably be discerned.” *Id.* at 8 (citing *Molina*
16 *v. Astrue*, 674 F.3d 1104, 1121 (9th Cir. 2012)).

17 Plaintiff replies that the Commissioner “makes no attempt to identify any
18 factual finding in the ALJ’s decision about the effectiveness of treatment
19 undermining Plaintiff’s testimony.” ECF No. 12 at 2. Plaintiff concludes, “Indeed,
20 there is none.” *Id.* (citing AR 21–22).

1 In deciding whether to accept a claimant’s subjective pain or symptom
2 testimony, an ALJ must perform a two-step analysis. *Smolen v. Chater*, 80 F.3d
3 1273, 1281 (9th Cir. 1996). First, the ALJ must evaluate “whether the claimant has
4 presented objective medical evidence of an underlying impairment ‘which could
5 reasonably be expected to produce the pain or other symptoms alleged.’”
6 *Lingenfelter v. Astrue*, 504 F.3d 1028, 1036 (9th Cir. 2007) (quoting *Bunnell v.*
7 *Sullivan*, 947 F.2d 341, 344 (9th Cir. 1991)). Second, if the first test is met and there
8 is no evidence of malingering, “the ALJ can reject the claimant’s testimony about
9 the severity of [his] symptoms only by offering specific, clear and convincing
10 reasons for doing so.” *Smolen*, 80 F.3d at 1281.

11 There is no allegation of malingering in this case. Plaintiff alleged the
12 following impairment, as summarized in the ALJ’s decision:

13 The claimant alleges disability due to anxiety; borderline personality
14 disorder; mood fluctuation; depression; posttraumatic stress disorder;
15 intellectual disability; paranoia; and bipolar disorder. She advised that
16 her conditions affect her abilities to lift, squat, bend, stand, reach, sit,
17 kneel, talk, hear, see, remember, complete tasks, concentrate,
18 understand, follow instructions, and get along with others. She stated
19 that she has a hard time remembering and is unable to concentrate or
20 understand verbal direction—has to have written directions. She stated
21 that she could pay attention for maybe “one-hour maximum,” and does
not finish what she starts. The claimant struggles with retaining
information, completing work tasks on time, understanding Math, and
the ability to read and understand what is written/follow directions. She
reported taking a variety of medications, including: aripiprazole;
bupropion; Buspirone; clonidine; gabapentin; gabapentin; naproxen;
omeprazole; sertraline; and Tylenol.

1 AR 21 (citing AR 277, 281, 288, 318, 329, 340, 348, 350).

2 The ALJ found that “Plaintiff’s statements about the intensity, persistence,
3 and limiting effects of his [sic] symptoms, . . . are inconsistent with the objective
4 medical evidence of record as a whole.” AR 21. The ALJ then discussed Plaintiff’s
5 treatment records from February 2019 through March 2021 and noted that the
6 records documented improvement with medications, decompensation when Plaintiff
7 ceased her medications, and an unremarkable presentation by Plaintiff at
8 appointments. AR 22–23 (citing AR 399, 403, 471, 474, 480, 484, 486, 540, 557–
9 58, 641–42, 691, and 693).

10 First, the ALJ cited treatment records supporting that Plaintiff’s symptoms
11 improved with adherence to her medication regimen and worsened when Plaintiff
12 ran out of her medication. *See* AR 484–86 (Plaintiff reporting in March 2020 that
13 her mood was “fine,” presenting in no acute distress, and reporting that she was
14 current on her medications and was seeing a counselor), AR 540–41 (at July 2020
15 appointment where Plaintiff presented in no acute distress, with an unremarkable
16 mood and affect, clinician finding that Plaintiff’s “[a]nxiety and depression scales
17 are better” and adjusting medication dosage to achieve “better control”); 557–58
18 (reporting an “acute exacerbation of her depression anxiety” after ceasing her
19 medication) (as written in original); 693 (at March 2021 appointment, Plaintiff
20 reported doing “‘better’ with her medications and that she is being able to sleep
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1 better”). A good response to medication, as documented by longitudinal medical
2 records, is an accepted reason for discounting a claimant’s subjective symptom
3 testimony. *See Warre v. Comm’r of Soc. Sec.*, 439 F.3d 1001, 1006 (9th Cir. 2006)
4 (“[i]mpairments that can be controlled effectively with medication are not disabling
5 for the purpose of determining eligibility for SSI benefits.”). Accordingly, the Court
6 does not fault the ALJ’s treatment of Plaintiff’s allegations on this ground.

7 Secondly, the ALJ cited to Plaintiff’s treatment records showing that she
8 presented at appointments during the relevant period in no acute distress and with
9 generally unremarkable psychiatric findings, apart from reporting a depressed mood.
10 *See* AR 22–23 (citing AR 399, 403, 471, 474, 480, 484, 486, 540, 557–58, 641–42,
11 691, and 693). The objective examination evidence cited by the ALJ generally does
12 not support Plaintiff’s subjective allegations that her symptoms are so severe that
13 they prevent her from working under the conditions set forth in the RFC.

14 To recount, the ALJ found that Plaintiff has severe impairments in the form of
15 depression, anxiety, PTSD, and borderline personality disorder and formulated an
16 RFC with several limitations relating to social interactions and managing stress. AR
17 18, 20. However, the ALJ discounted Plaintiff’s allegations that her impairments are
18 so severe that she cannot work in any capacity. AR 21; *see Fair v. Bowen*, 885 F.2d
19 597, 603 (9th Cir. 1989) (holding that individuals do not need to be symptom free to
20 work as disability benefits are intended for “people who are unable to work;

1 awarding benefits in cases of nondisabling pain would expand the class of recipients
2 far beyond that contemplated in the statute”). Although the ALJ’s analysis is sparse,
3 the ALJ provided two legitimate reasons, supported by substantial evidence, for not
4 fully crediting Plaintiff’s subjective complaints. The Court, therefore, concludes
5 that the ALJ did not err in discounting Plaintiff’s subjective complaints as
6 unsupported by Plaintiff’s longitudinal medical record.

7 *Medical Source Opinion*

8 Plaintiff contends that the ALJ did not provide legally sufficient reasons,
9 supported by substantial evidence in finding the opinion of examining psychologist
10 Jenna Yun, PhD to be unpersuasive. ECF No. 10 at 5–7. Plaintiff argues that an
11 ALJ may not discount a medical source opinion merely because it may have been
12 based primarily on Plaintiff’s self-reports and posits that “psychological evaluations
13 should not be rejected because of the relative imprecision of their methodology,
14 which will always rely on an individual’s self-reports, at least in part.” *Id.* at 7–8
15 (citing *Buck v. Berryhill*, 869 F.3d 1040, 1049 (9th Cir. 2017)).

16 The Commissioner responds that the ALJ addressed the two most important
17 factors in determining the persuasiveness of Dr. Yun’s opinion, supportability, and
18 consistency. ECF No. 11 at 11. The Commissioner argues that the ALJ
19 appropriately noted that Dr. Yun did not cite to any examination findings in her
20 report and appeared to rely primarily on Plaintiff’s subjective reports for her
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1 diagnosis. *Id.* (citing AR 23, 360). With respect to the consistency factor, the
2 Commissioner argues that the ALJ cited to the opinion of Dr. Jan Lewis, ““who had
3 the ability to view the majority of objective medical evidence in the record,
4 including Dr. Yun’s report prior to offering an opinion.”” *Id.* at 12 (citing AR 23).
5 The Commissioner notes that Dr. Lewis “opined that Plaintiff could perform simple
6 tasks, work with a limited number of co-workers, interact with briefly and
7 superficially with the public, and perform a job that did not change frequently.” *Id.*
8 at 12 (citing AR 149–50). The Commissioner further submits that “the ALJ cited
9 evidence showing that Plaintiff’s mental status examination reports were generally
10 appropriate or unremarkable, including normal mood, appropriate behavior, and
11 normal memory.” *Id.* (citing AR 21–22).

12 The regulations that took effect on March 27, 2017, provide a new framework
13 for the ALJ’s consideration of medical opinion evidence and require the ALJ to
14 articulate how persuasive she finds all medical opinions in the record, without any
15 hierarchy of weight afforded to different medical sources. *See* Rules Regarding the
16 Evaluation of Medical Evidence, 82 Fed. Reg. 5844-01, 2017 WL 168819 (Jan. 18,
17 2017). Instead, for each source of a medical opinion, the ALJ must consider several
18 factors, including supportability, consistency, the source’s relationship with the
19 claimant, any specialization of the source, and other factors such as the source’s
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1 familiarity with other evidence in the claim or an understanding of Social Security’s
2 disability program. 20 C.F.R. § 404.1520c(c)(1)-(5).

3 Supportability and consistency are the “most important” factors, and the ALJ
4 must articulate how she considered those factors in determining the persuasiveness
5 of each medical opinion or prior administrative medical finding. 20 C.F.R. §
6 404.1520c(b)(2). With respect to these two factors, the regulations provide that an
7 opinion is more persuasive in relation to how “relevant the objective medical
8 evidence and supporting explanations presented” and how “consistent” with
9 evidence from other sources the medical opinion is. 20 C.F.R. § 404.1520c(c)(1).

10 The ALJ may explain how she considered the other factors, but is not required to do
11 so, except in cases where two or more opinions are equally well-supported and
12 consistent with the record. 20 C.F.R. § 404.1520c(b)(2), (3). Courts also must
13 continue to consider whether the ALJ’s finding is supported by substantial evidence.
14 *See* 42 U.S.C. § 405(g) (“The findings of the Commissioner of Social Security as to
15 any fact, if supported by substantial evidence, shall be conclusive . . .”).

16 Prior to revision of the regulations, the Ninth Circuit required an ALJ to
17 provide clear and convincing reasons to reject an uncontradicted treating or
18 examining physician’s opinion and provide specific and legitimate reasons where the
19 record contains a contradictory opinion. *See Revels v. Berryhill*, 874 F.3d 648, 654
20 (9th Cir. 2017). However, the Ninth Circuit has held that the Social Security

1 regulations revised in March 2017 are “clearly irreconcilable with [past Ninth
2 Circuit] caselaw according special deference to the opinions of treating and
3 examining physicians on account of their relationship with the claimant.” *Woods v.*
4 *Kijakazi*, No. 21-35458, 2022 U.S. App. LEXIS 10977, at *14 (9th Cir. Apr. 22,
5 2022). The Ninth Circuit continued that the “requirement that ALJs provide
6 ‘specific and legitimate reasons’ for rejecting a treating or examining doctor’s
7 opinion, which stems from the special weight given to such opinions, is likewise
8 incompatible with the revised regulations.” *Id.* at *15 (internal citation omitted).

9 Accordingly, as Plaintiff’s claim was filed after the new regulations took
10 effect, the Court refers to the standard and considerations set forth by the revised
11 rules for evaluating medical evidence. *See* AR 15, 247–53.

12 Dr. Yun examined Plaintiff on May 17, 2019, and completed an evaluation
13 form for the Washington State Department of Social and Health Services (“DSHS”).
14 AR 358–59. Dr. Yun did not indicate any records that she reviewed in evaluating
15 Plaintiff’s condition. AR 358. Dr. Yun opined with respect to basic work activities
16 that Plaintiff is markedly impaired in seven, moderately impaired in four, and mildly
17 or not impaired in two. AR 361. Dr. Yun opined that the overall severity based on
18 the combined impact of all diagnosed mental impairments is marked. AR 361. Dr.
19 Yun’s mental status examination findings recited that Plaintiff presented with
20 unremarkable appearance; slow, but clear speech; cooperative attitude and good eye
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1 contact; and a flat affect. AR 362. Dr. Yun recorded that Plaintiff described her
2 current mood as “depressed, anxious”. AR 362. Dr. Yun further found that Plaintiff
3 responded outside of normal limits to several examination prompts, including that:
4 Plaintiff’s thoughts “appeared slowed and blocked at times”; Plaintiff could recall
5 what she ate for dinner the night before, but recalled zero of three words after a five-
6 minute delay; and Plaintiff “demonstrated impaired judgement [sic] and lack of
7 insight into her current conditions.” AR 362–63. Dr. Yun also found that Plaintiff
8 Plaintiff’s concentration was outside of normal limits but did not note any abnormal
9 responses by Plaintiff to examination questions. AR 363.

10 ALJ Lunderman reasoned that Dr. Yun examined Plaintiff on only one
11 occasion and did not review any of the objective medical evidence in Plaintiff’s
12 record. AR 23. ALJ Lunderman continued, “In her opinion, Dr. Yun determined
13 some of the claimant’s mental diagnoses were provisional or suspected, which
14 suggests the doctor’s opinion may be based more on subjective reports during the
15 time assessment, rather than the longitudinal view of overall mental functioning.”
16 AR 23 (as written in original). Furthermore, ALJ Lunderman found Dr. Yun’s
17 conclusions to be inconsistent with the opinions of another medical source, Dr.
18 Lewis, whose 2020 opinion ALJ Lunderman had found to be supported and
19 consistent with Plaintiff’s longitudinal record. AR 23.

1 As the ALJ's reasoning sets forth, the ALJ did not merely discount Dr. Yun's
2 opinion for being based on Plaintiff's self-reports, as Plaintiff suggests. *See* AR 23;
3 ECF No. 11 at 11. Rather, the ALJ appropriately considered the nature of Dr. Yun's
4 encounter with Plaintiff and whether her opinion was sufficiently supported to be
5 persuasive. AR 23. The ALJ further considered whether Dr. Yun's opinion is
6 consistent with evidence from other sources and articulated why she considered Dr.
7 Yun's opinion to be less persuasive than other sources. AR 23. As these are the
8 relevant factors from the governing framework, and the ALJ referred to substantial
9 evidence in applying the factors, the Court finds no error in the ALJ's treatment of
10 Dr. Yun's opinion.

11 As the Court finds no error in the two issues raised by Plaintiff, the Court need
12 not resolve the parties' disagreement regarding an appropriate remedy.

13 CONCLUSION

14 Having reviewed the record and the ALJ's findings, this Court concludes that
15 the ALJ's decision is supported by substantial evidence and free of harmful legal
16 error. Accordingly, **IT IS HEREBY ORDERED** that:

- 17 1. Plaintiff's Opening Brief, **ECF No. 10**, is **DENIED**.
- 18 2. Defendant's Brief, **ECF No. 11**, is **GRANTED**.
- 19 4. Judgment shall be entered for Defendant.

