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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SUSAN C. DEAN,

Plaintiff - Appellant,

v.

COMMISSIONER OF SOCIAL
SECURITY ADMINISTRATION,

Defendant - Appellee.

No. 12-35689

D.C. No. 3:11-cv-00738-MO

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Michael W. Mosman, District Judge, Presiding

Submitted November 8, 2013**
Portland, Oregon

Before: ALARCÓN, M. SMITH, and HURWITZ, Circuit Judges.

Susan Dean appeals a district court judgment that affirmed the decision of the Social Security Commissioner denying her claim for Supplemental Social Security

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Income disability benefits (SSI). We have jurisdiction under 28 U.S.C. § 1291 and affirm.

1. Dean claims that the Administrative Law Judge (ALJ) erred by rejecting lay witness testimony without giving specific and legitimate reasons germane to the witness. *See Bruce v. Astrue*, 557 F.3d 1113, 1115 (9th Cir. 2009). The ALJ, however, expressly stated that she discounted Ms. Prettyman's statement because it was contradicted by Dean's own allegations and the medical evidence.

2. Dean also claims that the ALJ erred because she did not adequately consider her step 3 finding that Dean has "a moderate restriction in her concentration, persistence, and pace" in the Residual Function Capacity finding and vocational hypothetical at steps 4 and 5. To the contrary, the ALJ expressly adopted the restriction identified in the medical testimony, which took into account Dean's nonexertional limitations. *See Stubbs–Danielson v. Astrue*, 539 F.3d 1169 (9th Cir. 2008).

The judgment of the district court is **AFFIRMED**.