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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

8
9 Reyes Ruiz,

10 Plaintiff,

11 v.

12 Social Security Administration,

13 Defendant.
14

No. CV-12-00725-PHX-JAT

ORDER

15 Pending before the Court are: (1) Plaintiff's Motion that Case be Kept
16 Confidential (Doc. 24); (2) Plaintiff's Motion to Strike Notice of Filing of Social Security
17 Transcript (Doc. 28) and (3) Plaintiff's Motion for an Award of Benefits (Doc. 31). The
18 Court now rules on the Motions.

19 **I. Plaintiff's Motion that Case be Kept Confidential (Doc. 24)**

20 Plaintiff requests that his case "be kept confidential to the public, not to include
21 any Government of[f]ice" and asks that no information be giving to "any one claiming to
22 be [his] family or the general public." (Doc. 24). Plaintiff has provided no reasons that
23 the Court should seal this case.

24 There is a strong presumption in favor of public access to documents. *Kamakana*
25 *v. City of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (internal citations omitted). A
26 party seeking to seal a judicial record must overcome the strong presumption by
27 articulating compelling reasons supported by specific factual findings that outweigh the
28 general history of access and public policies favoring disclosure. *Id.* at 1178–1179

1 (internal citations and quotations omitted). “In turn, the court must conscientiously
2 balance the competing interests of the public and the party who seeks to keep certain
3 judicial records secret.” *Id.* at 1179 (internal quotations and citations omitted). “After
4 considering these interests, if the court decides to seal certain judicial records, it must
5 base its decision on a compelling reason and articulate the factual basis for its ruling,
6 without relying on hypothesis or conjecture.” *Id.* (internal quotations and citations
7 omitted).

8 There is an exception to the presumption of access to judicial records for a sealed
9 discovery document attached to a non-dispositive motion. *Id.* (internal citations omitted).
10 To seal a document attached to a non-dispositive motion, the party seeking to seal must
11 make a good cause showing under Federal Rule of Civil Procedure 26(c). *Id.* (internal
12 citation omitted). However, even when a motion is not traditionally considered to be
13 dispositive, if the motion could have a dispositive effect on the case, the compelling
14 reasons standard should be applied. *See In re Midland Life Ins. Co. Annuity Sales*
15 *Practices Litig.*, 686 F.3d 1115, 1119–1120 (9th Cir. 2012).

16 In this case, Plaintiff has provided no reasons why this entire case should be
17 sealed. Accordingly, Plaintiff’s Motion that Case be Kept Confidential (Doc. 24) is
18 denied.

19 **II. Plaintiff’s Motion to Strike Notice of Filing of Social Security**
20 **Transcript (Doc. 28)**

21 Plaintiff moves to strike pages 66, 67, and 68 from the Administrative Transcript
22 of Record because “the conclusion” in those documents is “simply speculation and
23 incorrect.” (Doc. 28). Pages 66, 67, and 68 of the Administrative Transcript of Record
24 are part of the Social Security Administration’s “Notice of Disapproved Claims” to
25 Plaintiff. Plaintiff’s disagreement with the Social Security Administration’s decision
26 does not constitute a reason to strike that decision from this Court’s Record.
27 Accordingly, Plaintiff’s Motion to Strike Notice of Filing of Social Security Transcript
28 (Doc. 28) is denied.

1 **III. Plaintiff’s Motion for an Award of Benefits (Doc. 31)**

2 Plaintiff appeals the Administrative Law Judge’s (“ALJ”) denial of Plaintiff’s
3 Title II application for disability insurance benefits and Title XVI application for
4 supplemental security income based on disability.

5 Plaintiff filed his applications in February 2009, alleging disability beginning
6 November 1, 2008. (Record Transcript (“TR”) 130). Plaintiff’s claims were denied on
7 May 1, 2009. Reconsideration was denied on February 17, 2010. After an administrative
8 hearing, Plaintiff’s claims were again denied on April 27, 2011. On February 13, 2012,
9 the Appeals Counsel denied Plaintiff’s request for review.

10 On April 5, 2012, Plaintiff filed his Complaint for Judicial Review of the
11 Administrative Determination of Claim, which is the subject of this appeal (Doc. 1).
12 Plaintiff argues that the Court should vacate the Administrative Law Decision because he
13 has a medical condition which prevented him from working for twelve or more months.
14 (Doc. 31 and Doc. 35).

15 **A. Legal Standard**

16 The Commissioner’s decision to deny benefits will be overturned “only if it is not
17 supported by substantial evidence or is based on legal error.” *Magallanes v. Bowen*, 881
18 F.2d 747, 750 (9th Cir. 1989) (internal quotation omitted). Substantial evidence is more
19 than a mere scintilla, but less than a preponderance. *Reddick v. Charter*, 157 F.3d 715,
20 720 (9th Cir. 1998). It is such relevant evidence as a reasonable mind might accept as
21 adequate to support a conclusion. *Id.*

22 In determining whether there is substantial evidence to support a decision, this
23 Court considers the record as a whole, weighing both the evidence that supports the
24 administrative law judge’s conclusions and the evidence that detracts from the
25 administrative law judge’s conclusions. *Id.* If there is sufficient evidence to support the
26 Commissioner’s determination, the Court cannot substitute its own determination for that
27 of the ALJ. *Id.* Additionally, the administrative law judge is responsible for resolving
28 conflicts in medical testimony, determining credibility, and resolving ambiguities. *See*

1 *Andrews v. Shalala*, 53 F.3d 1035, 1039 (9th Cir. 1995). Thus, if on the whole record
2 before this Court, substantial evidence supports the Commissioner’s decision, this Court
3 must affirm it. *See Hammock v. Bowen*, 879 F.2d 498, 501 (9th Cir. 1989); *see also* 42
4 U.S.C. § 405(g).

5 **1. Definition of Disability**

6 To qualify for disability benefits under the Social Security Act, a claimant must
7 show, among other things, that he is “under a disability.” 42 U.S.C. § 423(a)(1)(E). The
8 Social Security Act defines “disability” as the “inability to engage in any substantial
9 gainful activity by reason of any medically determinable physical or mental impairment
10 which can be expected to result in death or which has lasted or can be expected to last for
11 a continuous period of not less than 12 months.” 42 U.S.C. § 423(d)(1)(A). A person is
12 “under a disability only if his physical or mental impairment or impairments are of such
13 severity that he is not only unable to do his previous work but cannot, considering his
14 age, education, and work experience, engage in any other kind of substantial gainful work
15 which exists in the national economy.” 42 U.S.C. § 423(d)(2)(A).

16 **2. Five-Step Evaluation Process**

17 The Social Security regulations set forth a five-step sequential process for
18 evaluating disability claims. 20 C.F.R. § 404.1520; *see also Reddick v. Chater*, 157 F.3d
19 715, 721 (9th Cir.1998) (describing the sequential process). A finding of “not disabled”
20 at any step in the sequential process will end the ALJ’s inquiry. 20 C.F.R. §
21 404.1520(a)(4). The claimant bears the burden of proof at the first four steps, but the
22 burden shifts to the ALJ at the final step. *Reddick*, 157 F.3d at 721.

23 The five steps are as follows:

24 1. First, the ALJ determines whether the claimant is “doing substantial gainful
25 activity.” 20 C.F.R. § 404.1520(a)(4)(i). If so, the claimant is not disabled.

26 2. If the claimant is not gainfully employed, the ALJ next determines whether
27 the claimant has a “severe medically determinable physical or mental impairment.” 20
28 C.F.R. § 404.1520(a)(4)(ii). A severe impairment is one that “significantly limits [the

1 claimant's] physical or mental ability to do basic work activities.” 20 C.F.R. §
2 404.1520(c). Basic work activities means the “abilities and aptitudes to do most jobs.”
3 20 C.F.R. § 404.1521(b). Further, the impairment must either be expected “to result in
4 death” or “to last for a continuous period of twelve months.” 20 C.F.R. § 404.1509
5 (incorporated by reference in 20 C.F.R. § 404.1520(a)(4)(ii)). The “step-two inquiry is a
6 de minimis screening device to dispose of groundless claims.” *Smolen v. Chater*, 80 F.3d
7 1273, 1290 (9th Cir. 1996).

8 3. Having found a severe impairment, the ALJ next determines whether the
9 impairment “meets or equals” one of the impairments specifically listed in the
10 regulations. 20 C.F.R. § 404.1520(a)(4)(iii). If so, the claimant is found disabled without
11 considering the claimant’s age, education, and work experience. 20 C.F.R. at §
12 404.1520(d).

13 4. At step four, the ALJ determines whether, despite the impairments, the
14 claimant can still perform “past relevant work.” 20 C.F.R. § 404.1520(a)(4)(iv). To
15 make this determination, the ALJ compares its “residual functional capacity assessment .
16 . . with the physical and mental demands of [the claimant’s] past relevant work.” 20
17 C.F.R. § 404.1520(f). If the claimant can still perform the kind of work the claimant
18 previously did, the claimant is not disabled. Otherwise, the ALJ proceeds to the final
19 step.

20 5. At the final step, the ALJ determines whether the claimant “can make an
21 adjustment to other work” that exists in the national economy. 20 C.F.R. §
22 404.1520(a)(4)(v). In making this determination, the ALJ considers the claimant’s
23 residual functional capacity, together with vocational factors (age, education, and work
24 experience). 20 C.F.R. § 404.1520(g)(1). If the claimant can make an adjustment to
25 other work, then he is not disabled. If the claimant cannot perform other work, he will be
26 found disabled. As previously noted, the ALJ has the burden of proving the claimant can
27 perform other substantial gainful work that exists in the national economy. *Reddick*, 157
28 F.3d at 721.

1 **B. Analysis**

2 The ALJ found that Plaintiff: (1) had not engaged in substantial gainful activity
3 since November 1, 2008, (2) had the following severe impairments: degenerative disk
4 disease of the lumbar spine, status-post anterior and posterior laminectomy, discectomy,
5 and fusion with instrumentation, and depression, (3) did not have an impairment or
6 combination of impairments specifically listed in the regulations, (4) had the residual
7 functional capacity to perform light work as defined in 20 C.F.R. § 404.1567(b) and 20
8 C.F.R. § 416.967(b); (5) could not perform past relevant work; and (6) could perform
9 jobs in the national economy such as garment sorter, mail clerk, and bench assembler.
10 Accordingly, the ALJ found that Plaintiff was not disabled as defined in the Social
11 Security Act. (TR 27-36).

12 Plaintiff makes no specific objections to the ALJ’s determinations. Rather,
13 Plaintiff argues that he has a medical condition that would prevent him from working for
14 over a year and, thus, the ALJ erred in not finding him disabled. From this, the Court
15 assumes that Plaintiff challenges the ALJ’s conclusion that Plaintiff is able to perform
16 jobs that exist in significant numbers in the national economy.

17 Once the claimant makes a showing that he suffers
18 from a severe impairment that prevents him from doing past
19 work, the Commissioner of Social Security (“Commissioner”)
20 bears the burden of showing that the claimant can perform
21 some other work that exists in ‘significant numbers’ in the
22 national economy, taking into consideration the claimant’s
23 residual functional capacity, age, education, and work
24 experience. The Commissioner can meet this burden in one
25 of two ways: (a) by the testimony of a vocational expert, or
26 (b) by reference to the Medical–Vocational Guidelines [‘the
27 grids’] at 20 C.F.R. pt. 404, subpt. P, app. 2.

28 *Lockwood v. Commissioner of Social Security*, 616 F.3d 1068, 1071 (9th Cir. 2010)
(internal citations omitted).

 In this case, the ALJ relied on the opinion of a Vocational Expert (“VE”). The
ALJ posed a hypothetical to the ALJ containing all of Plaintiff’s limitations that the ALJ

1 found credible and supported by substantial evidence in the record. The ALJ asked the
2 VE whether jobs exist in the national economy for an individual with the claimant's age,
3 education, work experience, and residual functional capacity. (TR 58). In response, the
4 VE testified that, given all of those factors, Plaintiff could perform work as a garment
5 sorter, mail clerk, or bench assembler. The ALJ found that the VE's testimony was
6 consistent with the information contained in the Dictionary of Occupational Titles.

7 The ALJ did not commit error at Step Five. The ALJ relied on testimony the VE
8 gave in response to the hypothetical based on Plaintiff's limitations that the ALJ found
9 credible and supported by substantial evidence in the record. This reliance was proper.
10 *See Magallanes v. Bowen*, 881 F.2d 747, 756-57 (9th Cir. 1989) (holding that it is proper
11 for an ALJ to limit a hypothetical to restrictions supported by substantial evidence in the
12 record); *Bayliss v. Barnhart*, 427 F.3d 1211, 1217-1218 (9th Cir. 2005). Moreover, the
13 restrictions given by the ALJ in her hypothetical to the VE were supported by the record
14 as explained in her opinion. (TR 31-34). Accordingly, the ALJ did not err in finding
15 Plaintiff not disabled as defined in the Social Security Act.

16 **IV. Conclusion**

17 Based on the foregoing,

18 **IT IS ORDERED** that Plaintiff's Motion that Case be Kept Confidential (Doc.
19 24) is denied.

20 **IT IS ORDERED** that Plaintiff's Motion to Strike Notice of Filing of Social
21 Security Transcript (Doc. 28) is denied.

22 **IT IS ORDERED** that Plaintiff's Motion for an Award of Benefits (Doc. 31) is
23 denied.

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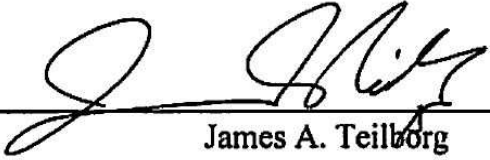
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IT IS ORDERED that the decision of the Administrative Law Judge is **AFFIRMED.**

IT IS FURTHER ORDERED that the Clerk of the Court shall enter judgment accordingly. The judgment will serve as the mandate of this Court.

Dated this 29th day of July, 2013.



James A. Teilborg
Senior United States District Judge