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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

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Richard Charles Hancock, Jr.,

No. CV-12-0768-PHX-FJM

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Plaintiff,

**ORDER**

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vs.

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Michael J. Astrue, Commissioner of Social  
Security Administration,

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Defendant.

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We have before us plaintiff’s opening brief (doc. 13), defendant’s response brief (doc. 14), and plaintiff’s reply brief (doc. 17).

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**I**

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This case arises from a denial by the Social Security Administration of an application for disability benefits filed by plaintiff on September 23, 2009, alleging a disability due to limitations caused by Complex Regional Pain Syndrome<sup>1</sup>, with an onset date of July 31,

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<sup>1</sup>Complex Regional Pain Syndrome is a chronic pain syndrome usually resulting from trauma to a single extremity. The most common acute clinical manifestations include complaints of intense pain and findings indicative of autonomic dysfunction at the site of the precipitating trauma. Spontaneously occurring pain may be associated with abnormalities in the affected region involving the skin, subcutaneous tissue, and bone. It is characteristic of this syndrome that the degree of pain reported is out of proportion to the severity of the

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1 2009. The claim was denied initially and upon reconsideration. After a hearing on January  
2 10, 2011, the administrative law judge (ALJ) issued a decision denying benefits. The  
3 decision became the final decision of the Commissioner when the Appeals Council denied  
4 plaintiff's request for review. Plaintiff then filed this action for judicial review under 42  
5 U.S.C. § 405(g).

6 A district court may set aside a denial of benefits "only if it is not supported by  
7 substantial evidence or if it is based on legal error." Thomas v. Barnhart, 278 F.3d 947, 954  
8 (9th Cir. 2002). Substantial evidence is "relevant evidence which, considering the record as  
9 a whole, a reasonable person might accept as adequate to support a conclusion. Where the  
10 evidence is susceptible to more than one rational interpretation, one of which supports the  
11 ALJ's decision, the ALJ's conclusion must be upheld." Id. (citation omitted).

12 The ALJ determined that plaintiff has the residual functional capacity to perform  
13 sedentary work, except that he can never climb ladders, ropes, scaffolds, ramps or stairs, or  
14 balance, kneel or crawl. He can occasionally stoop and crouch, and frequently reach, handle,  
15 finger, and feel. He requires the opportunity for a sit/stand option, allowing him to sit or  
16 stand at will. His work should be limited to simple, routine, and repetitive tasks, with only  
17 occasional decision-making, changes in work setting, or use of judgment. Tr. 22. The ALJ  
18 found that plaintiff cannot return to his past relevant work, but he is able to perform other  
19 work that is available in the national economy. The ALJ concluded that plaintiff is not  
20 disabled and therefore not eligible for benefits.

21 Plaintiff argues on appeal that the ALJ erred in rejecting the assessments of his  
22 treating physicians, John DeGuzman and Mark Spiro. He also argues that the ALJ's  
23 rejection of plaintiff's complaints of disabling pain is not supported by clear and convincing  
24 reasons.

## 25 II

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28 injury. When left untreated, the signs and symptoms of the disorder may worsen over time.  
Reply brief, ex. 1.



1 are supported by substantial evidence in the record.” Carmickle v. Comm’r Soc. Sec.  
2 Admin., 533 F.3d 1155, 1164 (9th Cir. 2008) (citation omitted).

3 In assessing plaintiff’s residual functional capacity, the ALJ considered the opinion  
4 of Dr. Turley who opined that he “would like [plaintiff] working if at all possible,” and he  
5 had “encouraged [plaintiff] to try to find a less physically demanding job.” Tr. 24, 378. The  
6 ALJ also noted that plaintiff’s treating physician, Dr. DeGuzman, opined that plaintiff could  
7 perform a range of sedentary work. Tr. 24, 391-93. In addition, with respect to plaintiff’s  
8 mental functioning, the ALJ referred to opinions by state agency psychologists who opined  
9 that plaintiff’s mental functioning, and in particular his ability to concentrate and complete  
10 tasks, was sufficient to enable him to perform unskilled work. Tr. 24-25, 346, 350.

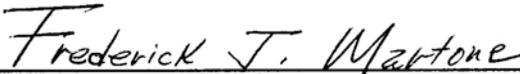
11 Plaintiff argues that the ALJ erred in discounting the pain functional capacity  
12 assessments of Drs. DeGuzman and Spiro, who opined that plaintiff has moderately severe  
13 pain that would seriously affect his ability to concentrate and stay on task. Tr. 374-75, 454-  
14 55. The ALJ gave little weight to these assessments because (1) they are inconsistent with  
15 Dr. Turley’s opinion that plaintiff can return to work, albeit a less physically demanding job;  
16 (2) the opinions are inconsistent with two state psychologist opinions that plaintiff has no  
17 difficulty with concentration, and that instead he can persevere and concentrate on simple,  
18 routine work, Tr. 342, 350; and (3) the opinions are inconsistent with the plaintiff’s activities  
19 of daily living. Tr. 24. Moreover, the opinions of Drs. DeGuzman and Spiro were based on  
20 plaintiff’s subjective complaints of pain. Therefore the reliability of those opinions are  
21 inextricably intertwined with plaintiff’s credibility. The ALJ’s conclusion that plaintiff is  
22 not fully credible also calls into question the reliability of the pain assessments by Drs.  
23 DeGuzman and Spiro. See Tonapetyan v. Halter, 242 F.3d 1144, 1149 (9th Cir. 2001)  
24 (“Because the present record supports the ALJ in discounting [claimant’s] credibility, . . . he  
25 was free to disregard [an examining physician’s] opinion, which was premised on  
26 [claimant’s] subjective complaints.”). The ALJ gave sufficiently clear and convincing  
27 reasons for discounting the opinions of plaintiff’s physicians.

28 **IV**

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Based on the foregoing, we conclude that the ALJ's conclusion that plaintiff is not disabled is supported by substantial evidence in the record. Therefore, **IT IS ORDERED AFFIRMING** the decision of the Commissioner denying disability benefits.

DATED this 18<sup>th</sup> day of January, 2013.

  
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Frederick J. Martone  
United States District Judge