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

8
9 Peggy J. Partica,

10 Plaintiff,

11 v.

12 Carolyn W. Colvin, Acting Commissioner
13 of Social Security,

14 Defendant.
15

No. CV-12-01201-PHX-JAT

ORDER

16 Pending before the Court is Plaintiff's appeal from the Administrative Law
17 Judge's ("ALJ") denial of Plaintiff's Title II application for disability insurance benefits
18 and Title XVI application for supplemental security income based on disability.

19 **I. PROCEDURAL BACKGROUND**

20 Plaintiff Sheeah Savage filed Title II and Title XVI applications for Disability
21 Insurance Benefits and Supplemental Security Income benefits in June 2004 and alleged
22 that her disability began in September 2002. (Record Transcript ("TR") 32, 83-85, 92,
23 452-459). Plaintiff was last insured for the purposes of Disability Insurance Benefits on
24 December 31, 2008. (TR 87). Plaintiff's applications were denied initially. On October
25 20, 2006, a hearing was held before an ALJ, who issued an unfavorable decision on
26 November 22, 2006. (TR 871, TR 474-481). On July 31, 2007, the Appeals Council
27 vacated the hearing decision and remanded the case to the ALJ for further proceedings.
28 (TR 488-490). Thereafter, on November 28, 2007, another hearing was held before the

1 ALJ, who issued an unfavorable decision on March 11, 2008. (TR 898, TR 575-582).
2 On August 24, 2010, the Appeals Council vacated the second hearing decision and
3 remanded the case to a different ALJ for further proceedings. (TR 586-589). On
4 November 23, 2010, a third hearing was held before an ALJ, who issued an unfavorable
5 decision on February 10, 2011. (TR 22-32). On April 23, 2012, the Appeals Council
6 denied Plaintiff's request for review of the ALJ's February 10, 2011 decision. (TR 10-
7 12).

8 On June 6, 2012, Plaintiff filed her Complaint for Judicial Review of the
9 Administrative Determination of Claim, which is the subject of this appeal (Doc. 1).
10 Plaintiff argues that the Court should vacate the Administrative Law Decision because:
11 (1) the ALJ erred in failing to comply with the order of the Social Security
12 Administration Appeals Council on remand when the ALJ failed to properly evaluate
13 Plaintiff's mental impairments and failed to provide a determination of Plaintiff's
14 capacities that was supported by the record; and (2) the ALJ erred by relying on the
15 opinion of a one-time examining physician and rejecting the assessment of the treating
16 nurse practitioner. (Doc. 19).

17 **II. LEGAL STANDARD**

18 The Commissioner's decision to deny benefits will be overturned "only if it is not
19 supported by substantial evidence or is based on legal error." *Magallanes v. Bowen*, 881
20 F.2d 747, 750 (9th Cir. 1989) (internal quotation omitted). Substantial evidence is more
21 than a mere scintilla, but less than a preponderance. *Reddick v. Charter*, 157 F.3d 715,
22 720 (9th Cir. 1998). It is such relevant evidence as a reasonable mind might accept as
23 adequate to support a conclusion. *Id.*

24 In determining whether there is substantial evidence to support a decision, this
25 Court considers the record as a whole, weighing both the evidence that supports the
26 administrative law judge's conclusions and the evidence that detracts from the
27 administrative law judge's conclusions. *Id.* If there is sufficient evidence to support the
28 Commissioner's determination, the Court cannot substitute its own determination. *Id.*

1 Additionally, the administrative law judge is responsible for resolving conflicts in
2 medical testimony, determining credibility, and resolving ambiguities. *See Andrews v.*
3 *Shalala*, 53 F.3d 1035, 1039 (9th Cir. 1995). Thus, if on the whole record before this
4 Court, substantial evidence supports the Commissioner’s decision, this Court must affirm
5 it. *See Hammock v. Bowen*, 879 F.2d 498, 501 (9th Cir. 1989); *see also* 42 U.S.C. §
6 405(g).

7 **A. Definition of Disability**

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

18 **B. Five-Step Evaluation Process**

19 The Social Security regulations set forth a five-step sequential process for
20 evaluating disability claims. 20 C.F.R. § 404.1520; *see also Reddick v. Chater*, 157 F.3d
21 715, 721 (9th Cir.1998) (describing the sequential process). A finding of “not disabled”
22 at any step in the sequential process will end the ALJ’s inquiry. 20 C.F.R. §
23 404.1520(a)(4). The claimant bears the burden of proof at the first four steps, but the
24 burden shifts to the ALJ at the final step. *Reddick*, 157 F.3d at 721.

25 The five steps are as follows:

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

28 2. If the claimant is not gainfully employed, the ALJ next determines whether

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

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

14 4. At step four, the ALJ determines whether, despite the impairments, the
15 claimant can still perform “past relevant work.” *Id.* at § 404.1520(a)(4)(iv). To make
16 this determination, the ALJ compares its “residual functional capacity assessment . . .
17 with the physical and mental demands of [the claimant’s] past relevant work.” *Id.* at §
18 404.1520(f). If the claimant can still perform the kind of work the claimant previously
19 did, the claimant is not disabled. Otherwise, the ALJ proceeds to the final 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. *Id.* at § 404.1520(a)(4)(v).
22 In making this determination, the ALJ considers the claimant’s residual functional
23 capacity, together with vocational factors (age, education, and work experience). *Id.* at §
24 404.1520(g)(1). If the claimant can make an adjustment to other work, then he is not
25 disabled. If the claimant cannot perform other work, he will be found disabled. As
26 previously noted, the ALJ has the burden of proving the claimant can perform other
27 substantial gainful work that exists in the national economy. *Reddick*, 157 F.3d at 721.

28 In this case, the ALJ found that Plaintiff: (1) had not engaged in substantial gainful

1 activity since September 1, 2002, (2) had the following severe impairments when
2 considered in combination: fibromyalgia, degenerative disc disease of the lumbar/cervical
3 spine, migraine headaches, and is status-post carpal tunnel release, (3) did not have an
4 impairment or combination of impairments specifically listed in the regulations, (4) had
5 the ability to perform the exertional requirements of light, unskilled work, (5) could not
6 perform her past relevant work, and (6) could perform jobs that exist in significant
7 numbers in the national economy, such as assembler, cashier, and a quality control
8 inspector. (TR 22-32).

9 **III. ANALYSIS**

10 **A. Whether the ALJ Erred in Failing to Comply with the Order of** 11 **the Social Security Administration Appeals Council on Remand**

12 This Court previously held that it is not the Court's province to determine whether
13 the ALJ did or did not follow the Appeals Council's remand Order, but rather it is the
14 Court's duty to determine whether the ALJ erred in determining that Plaintiff was not
15 disabled within the meaning of the Social Security Act. *See Savage v. Astrue*, CV 11-
16 2103-PHX-JAT, 2013 WL 551461, at *3-4 (D. Ariz. Feb. 13, 2013). In her Reply Brief,
17 Plaintiff agrees with that analysis. (Doc. 28 at 2).

18 As such, the Court will only consider Plaintiff's arguments regarding the ALJ's
19 failure to follow the Appeals Council's remand order to the extent they are relevant to the
20 ALJ's ultimate decision regarding Plaintiff's disability. In that regard, Plaintiff argues
21 that (1) the ALJ did not provide proper reasons for discrediting Plaintiff's subjective
22 complaints; (2) the ALJ did not provide specific findings and appropriate rationale in
23 finding that Plaintiff did not have severe mental impairments; and (3) the ALJ erred in
24 determining Plaintiff's residual functional capacity.

25 **1. Whether the ALJ Properly Discredited Plaintiff's** 26 **Subjective Complaints**

27 Plaintiff argues that the ALJ erred in finding that claimant's subjective complaints
28 about her pain were not fully credible. Plaintiff argues that the ALJ gave only two
reasons for discounting Plaintiff's subjective complaints, namely that the medical

1 evidence of record did not substantiate the level of pain or the degree of limitation
2 Plaintiff was reporting and that Plaintiff’s daily activities were not consistent with her
3 allegation of disability. Plaintiff argues that the ALJ’s reasoning was improper. Plaintiff
4 argues that the ALJ improperly considered the lack of objective medical evidence
5 because the ALJ must only rely on medical evidence of an underlying medical
6 impairment and must not look for medical evidence of the severity of symptoms.

7 While an ALJ may not reject a claimant’s subjective complaints based solely on
8 lack of objective medical evidence to fully corroborate the alleged severity of pain, *see*
9 *Rollins v. Massanari*, 261 F.3d 853, 856–57 (9th Cir. 2001); *Fair*, 885 F.2d 597, 602 (9th
10 Cir. 1989), the lack of objective medical evidence supporting the claimant’s claims may
11 support the ALJ’s finding that the claimant is not credible. *See Batson v. Comm’r of the*
12 *Soc. Sec. Admin.*, 359 F.3d 1190, 1197 (9th Cir. 2003). Factors that the adjudicator
13 should consider when making such credibility determinations include the nature, location,
14 onset, duration, frequency, radiation, and intensity of any pain, precipitating and
15 aggravating factors (e.g., movement, activity, environmental conditions), type, dosage,
16 effectiveness, and adverse side-effects of any pain medication, treatment, other than
17 medication, for relief of pain, functional restrictions, and the claimant’s daily activities.
18 *Bunnell*, 947 F.2d 341, 346 (9th Cir. 1991) (en banc) (citing SSR 88–13, 1988 WL
19 236011 (July 20, 1988)). “Although an ALJ ‘cannot be required to believe every
20 allegation of disabling pain,’ the ALJ cannot reject testimony of pain without making
21 findings sufficiently specific to permit the reviewing court to conclude that the ALJ did
22 not arbitrarily discredit the claimant’s testimony.” *Orteza*, 50 F.3d at 750 (quoting
23 *Bunnell*, 947 F.2d at 345-46 and *Fair v. Bowen*, 885 F.2d 597, 603 (9th Cir. 1989)).

24 “[I]f the claimant engages in numerous daily activities involving skills that could
25 be transferred to the workplace, an adjudicator may discredit the claimant’s allegations
26 upon making specific findings relating to the claimant’s daily activities.” *Id.* (citing
27 *Fair*, 885 F.2d at 603. “An adjudicator may also use ‘ordinary techniques of credibility
28 evaluation’ to test a claimant’s credibility.” *Id.* (internal citation omitted). “So long as

1 the adjudicator makes specific findings that are supported by the record, the adjudicator
2 may discredit the claimant's allegations based on inconsistencies in the testimony or on
3 relevant character evidence." *Id.*

4 In this case, the ALJ relied not only on the objective medical evidence in finding
5 that Plaintiff's subjective complaints were not fully credible, he also relied on Plaintiff's
6 daily activities. The ALJ specifically relied on the improvements that Plaintiff had
7 experienced with her back pain and that medication substantially helped Plaintiff. (TR
8 29). As argued by the Commissioner, the objective evidence in the record as a whole
9 supports the ALJ's reliance. Specifically, the objective medical evidence revealed
10 lumbar spine ranges of motion of flexion of fingertips to ankles with full extension,
11 normal lower extremity muscle strength without atrophy, intact lower extremity sensory
12 functioning, normal lower extremity reflexes, negative straight leg testing, normal gait
13 and station, and the ability to perform easily position changes between sitting/standing,
14 sitting/supine, and mounting/dismounting the examination table, only slight abnormalities
15 in the x-rays, and mild to moderate abnormalities and the absence of central canal
16 stenosis at various disc levels. (Doc. 25 at 14). The objective evidence further revealed a
17 supple neck, normal neck movement, including full neck flexion and extension without
18 behavioral pain signs, normal extremity ranges of motion, including full wrist, shoulder,
19 and elbow ranges of motions, normal upper extremity motor functioning, normal upper
20 extremity muscle strength without atrophy, and normal upper extremity reflexes. (*Id.* at
21 14-15).

22 Objective evidence also showed treatment and medications were somewhat
23 effective. (*Id.*). Physical therapy was effective for Plaintiff's neck and back pain and the
24 right carpal tunnel release and right thumb surgery were helpful. (*Id.* at 16).
25 "Impairments that can be controlled effectively with medication are not disabling for the
26 purpose of determining eligibility for [disability] benefits." *Warre v. Comm'r of Soc.*
27 *Sec. Admin.*, 439 F.3d 1001, 1006 (9th Cir. 2006) (citing *Brown v. Barnhart*, 390 F.3d
28 535, 540 (8th Cir. 2004)); *Lovelace v. Bowen*, 813 F.2d 55, 59 (5th Cir. 1987); *Odle v.*

1 *Heckler*, 707 F.2d 439, 440 (9th Cir. 1983) (affirming a denial of benefits and noting that
2 the claimant’s impairments were responsive to medication)). Moreover, the ALJ’s
3 residual functional capacity assessment was consistent with the findings of Dr. Palmer
4 and Dr. Mullon.

5 Further, in accordance with the factors to consider under SSR 88–13, the ALJ
6 considered evidence of daily activities. Such consideration is not improper. *See Fair*,
7 885 F.2d at 603 (“More realistically, if, despite his claims of pain, a claimant is able to
8 perform household chores and other activities that involve many of the same physical
9 tasks as a particular type of job, it would not be farfetched for an ALJ to conclude that the
10 claimant’s pain does not prevent the claimant from working”). The ALJ took into
11 account Plaintiff’s daily activities of laundry, cleaning, shopping, managing money,
12 attending college, and engaging in her hobby of making beaded jewelry in determining
13 that Plaintiff’s subjective complaints were not fully credible. (TR. 29).

14 Accordingly, the ALJ relied on several factors when determining that Plaintiff
15 could perform certain work, including evidence of improvement in her medical records,
16 her daily activities, and her ability to attend college

17 Based on foregoing, the ALJ’s credibility finding was a “reasonable
18 interpretation” of the evidence and was supported by substantial evidence in the record,
19 and as such, “it is not [the Court’s] role to second-guess it.” *Rollins*, 261 F.3d at 857
20 (citing *Fair*, 885 F.2d at 604). Therefore, the ALJ did not err in discounting Plaintiff’s
21 subjective complaints.

22 **2. Whether the ALJ Provided Specific Findings and**
23 **Appropriate Rationale in Finding that Plaintiff did not**
24 **have Severe Mental Impairments**

25 Plaintiff argues that the ALJ erred at Step Two in finding that Plaintiff’s mood
26 disorder was not severe. Plaintiff argues that the ALJ erred because his conclusion that
27 Plaintiff’s mood disorder was not a severe impairment was solely based on 2006 Global
28 Assessment of Functioning (“GAF”) scores.

In addition to the five-step sequential evaluation discussed above, when evaluating

1 the severity of mental impairments for adults, the ALJ is required to assess the functional
2 limitations of the claimant in relation to four broad categories: daily living, social
3 functioning, concentration, persistence, or pace, and episodes of decompensation. 20
4 CFR § 404.1520a. When rating the categories of daily living, social functions, and
5 concentration, persistence, or pace, the ALJ is to use a five point scale of none, mild,
6 moderate, marked, and extreme. *Id.* When rating decompensation, the ALJ is to use a
7 four point scale of none, one or two, three, or four or more. *Id.* After rating the degree of
8 functional limitation, the ALJ determines the severity of the mental impairments. If the
9 ALJ finds that there are severe mental impairments that do not meet or are equivalent in
10 severity to any listing, the ALJ then assesses the claimant’s residual functional capacity.
11 *Id.*

12 Social Security Rule 96–8p provides:

13 The RFC assessment must first identify the individual’s
14 functional limitations or restrictions and assess his or her
15 work-related abilities on a function-by-function basis,
16 including the functions in paragraphs (b), (c), and (d) of 20
17 CFR 404.1545 and 416.945. Only after that may RFC be
18 expressed in terms of the exertional levels of work, sedentary,
19 light, medium, heavy, and very heavy.

20 In assessing a residual functional capacity (“RFC”) for mental abilities, the ALJ
21 must assess the nature and extent of claimant’s mental limitation and restrictions and then
22 determine the residual functional capacity for work activity on a regular and continuing
23 basis. 20 C.F.R. 404.1545(c); 20 C.F.R. 416.945. “A limited ability to carry out certain
24 mental activities, such as limitations in understanding, remembering, and carrying out
25 instructions, and in responding appropriately to supervision, co-workers, and work
26 pressures in a work setting, may reduce [a claimant’s] ability to do past work and other
27 work.” *Id.*

28 In this case, the ALJ did rely on GAF scores that ranged from 55-65 in 2005 and
2006 in determining that Plaintiff’s mood disorder was not a severe impairment under the
regulations. (TR 26). However, the ALJ also relied on medical records related to

1 Plaintiff's treatment and diagnosis for a mood disorder. (TR 26). Moreover, the ALJ
2 found that Plaintiff has (1) mild limitations in daily living; (2) mild limitations in social
3 functioning; (3) moderate limitations in concentration persistence or pace, and (4) no
4 episodes of decompensation. (TR 27). The ALJ then went on to explain the basis for
5 these conclusions with specific reference to Plaintiff's medical records, including
6 psychiatric progress notes and psychiatric symptoms. (TR 27). As a result, the ALJ
7 found that Plaintiff's mood disorder does not cause more than minimal limitations in the
8 Plaintiff's ability to perform basic mental work activities and is nonsevere. (TR 27).

9 The ALJ's conclusion that Plaintiff's mood disorder did not cause more than
10 minimal limitations in her ability to perform basic mental work is supported by the
11 record. (*See* Doc. 25 at 25-26 (citing to evidence in the Record supporting ALJ's
12 determination)); *Molina v. Astrue*, 674 F.3d 1104, 1119 (9th Cir. 2012) (finding that,
13 even if ALJ fails to give appropriate reasons for his decision, if the record supports his
14 ultimate conclusion, the ALJ's failure to properly explain that conclusion is harmless
15 error).

16 **3. Whether the ALJ erred in Determining Plaintiff's** 17 **Residual Functional Capacity**

18 Plaintiff argues that the ALJ's assessment of Plaintiff's residual functional
19 capacity was unsupported by any evidence in the record. The ALJ found that Plaintiff
20 has the residual functional capacity to perform the exertional requirements of light work
21 with restrictions as light work and that she is further limited to unskilled work. (TR 27-
22 28). The ALJ found that Plaintiff required a sit/stand option and cannot crawl, crouch,
23 climb, squat, or kneel and that she has no use of lower extremities for pushing/pulling,
24 and no use of the upper extremities for work above shoulder level. (TR 27-28).

25 In determining Plaintiff's residual functional capacity, the ALJ determined that
26 Plaintiff's subjective complaints were not fully credible, that the medical evidence
27 demonstrated that claimant's degenerative disc disease is mildly to moderately severe at
28 worst, that in December 2004 Plaintiff had a good range of motion throughout her spine

1 with no radiculopathy, that with physical therapy, Plaintiff's back pain improved
2 substantially, that Plaintiff's daily activities did not keep her from performing activities
3 of daily living and attending college, and that Plaintiff's headaches and general body pain
4 from fibromyalgia had been generally well-controlled with medication. (TR 29). The
5 ALJ also relied on the medical source statement of Dr. Palmer that claimant had the
6 ability to perform a least a broad range of light work. (*Id.*).¹

7 The ALJ determines the residual functional capacity based on "all of the relevant
8 medical and other evidence." 20 C.F.R. §404.1545(3).

9 As discussed above, the ALJ did consider the medical and other evidence in
10 determining Plaintiff's residual functional capacity. As a result, the ALJ's analysis of
11 Plaintiff's personal limitations are sufficiently detailed to support his RFC determination
12 and Plaintiff's assertions that the ALJ erred by determining Plaintiff's residual functional
13 capacity without any basis in the record and by failing to make a RFC determination
14 based on the individualized facts of her case is without merit.

15 **B. Whether the ALJ erred in Rejecting the Assessment of**
16 **Plaintiff's Treating Nurse Practitioner**

17 Plaintiff next argues that the ALJ improperly rejected the opinion of a nurse
18 practitioner who treated Plaintiff. Nurse practitioner Meinders opined that Plaintiff had
19 "moderately severe" pain that limited her to less than sedentary work. The ALJ rejected
20 the nurse practitioner's opinion because a nurse practitioner is not an "acceptable medical
21 source" under the regulations, the limitations assigned by the nurse practitioner were
22 supported by few specific findings, and the nurse practitioner reached most of her
23 medical opinions based on Plaintiff's subjective complaints. (TR 30).

24 Plaintiff argues that the medical evidence did support the nurse practitioner's
25 findings and that the ALJ erred in assigning great weight to the opinion of one-time
26 examiner, Dr. Palmer, because it was not supported by the record as a whole.

27 _____
28 ¹ The Court will discuss Plaintiff's objections to the ALJ's reliance on Dr. Palmer
below.

1 Nurse practitioners are defined as “other sources,” in 20 C.F.R. § 404.1513(d)(1)
2 and are not entitled to the same deference as other types of providers. *Molina*, 674 F.3d
3 at 1111-1112 (citing 20 C.F.R. § 404.1527 and SSR 06–03p). “The ALJ may discount
4 testimony from these other sources if the ALJ gives reasons germane to each witness for
5 doing so.” *Id.* (internal quotations and citations omitted).

6 Plaintiff admits that Meinders is not a medically acceptable treating source, but
7 argues that the ALJ’s reasons for rejecting Meinders’ opinions were not supported by the
8 Record. In Response, the Commissioner argues that the ALJ’s reasons were supported
9 by the record because (1) nurse practitioner Meinders’ opinions were supported by few
10 specific findings, and (2) nurse practitioner’s Meinders’ statement was based on
11 Plaintiff’s subjective complaints. The Commissioner argues that an opinion is properly
12 discounted where it was conclusory or unsupported by medical evidence and, because the
13 ALJ found Plaintiff’s subjective reports not to be credible, it was proper to use that
14 evaluation when evaluating Meinders’ opinions, which were based on Plaintiff’s
15 subjective complaints. (Doc. 25 at 18-19).

16 Indeed, the ALJ rejected nurse practitioner Meinders’ conclusions because those
17 opinions were supported by few specific findings and based on Plaintiff’s subjective
18 complaints rather than objective medical evidence. These reasons are germane because a
19 medical opinion may be discounted where it is conclusory and not supported by objective
20 medical evidence. *See Johnson v. Shalala*, 60 F.3d 1428, 1432-33 (9th Cir. 1995).

21 Plaintiff also argues that the ALJ erred in assigning great weight to the opinion of
22 Dr. Palmer because he is not an orthopedic specialist, but is a family practice physician.
23 Plaintiff argues that the ALJ erred by failing to provide independent evidence in support
24 of his decision to assign greater weight to the nontreating sources’ opinions over the
25 assessments of Plaintiff’s treating nurse practitioner. Contrary to Plaintiff’s argument, as
26 noted above, the ALJ did provide germane reasons for discounting the opinions of
27 Plaintiff’s nurse practitioner. Moreover, as discussed above, there is substantial evidence
28 of record supporting the ALJ’s decision that Plaintiff is not disabled. *Batson*, 359 F.3d at

1 1193 (“[T]he Commissioner’s findings are upheld if supported by inferences reasonably
2 drawn from the record, and if evidence exists to support more than one rational
3 interpretation, we must defer to the Commissioner’s decision.” (internal citations
4 omitted).

5 As such, Plaintiff has failed to show that the ALJ erred in including the opinion of
6 Dr. Palmer in the overall analysis of Plaintiff’s RFC and rejecting the opinion of nurse
7 practitioner Meinders in the overall analysis of Plaintiff’s RFC.

8 **IV. CONCLUSION**

9 Accordingly, the ALJ did not err in finding that Plaintiff was not disabled within
10 the meaning the Social Security Act.

11 Based on the foregoing,

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

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

16 Dated this 20th day of August, 2013.

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James A. Teilborg
Senior United States District Judge