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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
8

9 Jeremy R. Deiman,

10 Plaintiff,

11 v.

12 Carolyn W. Colvin,

13 Defendant.  
14

No. CV-15-00161-PHX-DLR

**ORDER**

15  
16 Plaintiff Jeremy Deiman seeks review under 42 U.S.C. § 405(g) of the final  
17 decision of the Commissioner of Social Security (“the Commissioner”), which denied  
18 him disability insurance benefits and supplemental security income under sections 216(i),  
19 223(d), and 1614(a)(3)(A) of the Social Security Act. Because the decision of the  
20 Administrative Law Judge (“ALJ”) is supported by substantial evidence and is not based  
21 on legal error, the Commissioner’s decision is affirmed.

22 **I. Background**

23 **A. Factual Background**

24 Deiman, a thirty-five-year-old male, has a General Equivalency Degree. Between  
25 1999 and 2011, he worked over thirty short-term jobs in which he resigned or was  
26 terminated due to his inability to get along with coworkers and supervisors. (Doc. 16 at  
27 2, 6.) He suffers from “mental illness with associated mood swings, anxiety, panic  
28 attacks, depression, suicide thoughts/attempts, and social interaction problems. (*Id.* at 2.)

1           **B. Procedural History**

2           On November 28, 2011, Deiman applied for disability insurance benefits and  
3 supplemental security income, alleging disability beginning August 19, 2010. (A.R. 25.)<sup>1</sup>  
4 On July 23, 2013, he appeared with his attorney and testified at a hearing before the ALJ.  
5 A vocational expert also testified.

6           On September 3, 2013, the ALJ issued a decision that Deiman was not disabled  
7 within the meaning of the Social Security Act. The Appeals Council denied Deiman’s  
8 request for review of the hearing decision, making the ALJ’s decision the  
9 Commissioner’s final decision. On January 30, 2015, Deiman sought review by this  
10 Court.

11           **II. Legal Standard**

12           The district court reviews only those issues raised by the party challenging the  
13 ALJ’s decision. *See Lewis v. Apfel*, 236 F.3d 503, 517 n.13 (9th Cir. 2001). The court  
14 may set aside the Commissioner’s disability determination only if the determination is  
15 not supported by substantial evidence or is based on legal error. *Orn v. Astrue*, 495 F.3d  
16 625, 630 (9th Cir. 2007). Substantial evidence is more than a scintilla, less than a  
17 preponderance, and relevant evidence that a reasonable person might accept as adequate  
18 to support a conclusion considering the record as a whole. *Id.* In determining whether  
19 substantial evidence supports a decision, the court must consider the record as a whole  
20 and may not affirm simply by isolating a “specific quantum of supporting evidence.” *Id.*  
21 As a general rule, “[w]here the evidence is susceptible to more than one rational  
22 interpretation, one of which supports the ALJ’s decision, the ALJ’s conclusion must be  
23 upheld.” *Thomas v. Barnhart*, 278 F.3d 947, 954 (9th Cir. 2002) (citations omitted).

24           **III. Five-Step Sequential Evaluation Process**

25           To determine whether a claimant is disabled for purposes of the Social Security  
26 Act, the ALJ follows a five-step process. 20 C.F.R. § 404.1520(a). The claimant bears

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28           <sup>1</sup> Deiman amended his original alleged onset date during the hearing. (A.R. 47.)

1 the burden of proof on the first four steps, but at step five, the burden shifts to the  
2 Commissioner. *Tackett v. Apfel*, 180 F.3d 1094, 1098 (9th Cir. 1999).

3 At the first step, the ALJ determines whether the claimant is engaging in  
4 substantial gainful activity. 20 C.F.R. § 404.1520(a)(4)(i). If so, the claimant is not  
5 disabled and the inquiry ends. *Id.* At step two, the ALJ determines whether the claimant  
6 has a “severe” medically determinable physical or mental impairment.  
7 § 404.1520(a)(4)(ii). If not, the claimant is not disabled and the inquiry ends. *Id.* At step  
8 three, the ALJ considers whether the claimant’s impairment or combination of  
9 impairments meets or medically equals an impairment listed in Appendix 1 to Subpart P  
10 of 20 C.F.R. Pt. 404. § 404.1520(a)(4)(iii). If so, the claimant is automatically found to  
11 be disabled. *Id.* If not, the ALJ proceeds to step four. At step four, the ALJ assesses the  
12 claimant’s residual functional capacity (“RFC”) and determines whether the claimant is  
13 still capable of performing past relevant work. § 404.1520(a)(4)(iv). If so, the claimant  
14 is not disabled and the inquiry ends. *Id.* If not, the ALJ proceeds to the fifth and final  
15 step, where he determines whether the claimant can perform any other work based on the  
16 claimant’s RFC, age, education, and work experience. § 404.1520(a)(4)(v). If so, the  
17 claimant is not disabled. *Id.* If not, the claimant is disabled. *Id.*

18 At step one, the ALJ found that Deiman meets the insured status requirements of  
19 the Social Security Act through March 31, 2012, and that he has not engaged in  
20 substantial gainful activity since January 1, 1999. (A.R. 27.) At step two, the ALJ found  
21 that Deiman has the following severe impairments: major depressive disorder, obsessive  
22 compulsive disorder (OCD) and borderline personality disorder. (*Id.*) At step three, the  
23 ALJ determined that Deiman does not have an impairment or combination of  
24 impairments that meets or medically equals an impairment listed in Appendix 1 to  
25 Subpart P of 20 C.F.R. Pt. 404. (*Id.* at 30.)

26 At step four, the ALJ found that Deiman has the RFC to perform “a full range of  
27 work at all exertional levels but with the following nonexertional limitations: The  
28 claimant can interact with coworkers and supervisors, but is precluded from jobs

1 requiring public contact. He is limited to simple, routine and unskilled work.” (*Id.* at 31-  
2 32.) The ALJ further found that Deiman has no past relevant work. (*Id.* at 36.) At step  
3 five, the ALJ concluded that, considering Deiman’s age, education, work experience, and  
4 RFC, there are jobs that exist in significant numbers in the national economy that he  
5 could perform. (*Id.*)

#### 6 **IV. Analysis**

7 Deiman argues the ALJ’s decision is unsupported by substantial evidence for three  
8 reasons: (1) the ALJ improperly discounted Deiman’s credibility regarding the severity  
9 of his symptoms, (2) the ALJ improperly weighed the medical opinion evidence in the  
10 record, and (3) the ALJ improperly relied on the Medical-Vocational Guidelines at Step  
11 Five. (Doc. 16 at 7.) The Court will address each in turn.

##### 12 **A. The ALJ Did Not Err in Evaluating Deiman’s Credibility**

13 Deiman argues the ALJ erred in evaluating the credibility of his statements  
14 regarding the severity of his symptoms. (Doc. 16 at 7.) In evaluating credibility, the ALJ  
15 is required to engage in a two-step analysis: (1) determine whether the claimant  
16 presented objective medical evidence of an impairment that could reasonably be expected  
17 to produce some degree of the pain or other symptoms alleged; and, if so with no  
18 evidence of malingering, (2) reject the claimant’s testimony about the severity of the  
19 symptoms only by giving specific, clear, and convincing reasons for the rejection.  
20 *Vasquez v. Astrue*, 572 F.3d 586, 591 (9th Cir. 2009). “In reaching a credibility  
21 determination, an ALJ may weigh inconsistencies between the claimant’s testimony and  
22 his or her conduct, daily activities, and work record, among other factors.” *Bray v.*  
23 *Comm’r of Soc. Sec. Admin.*, 554 F.3d 1219, 1227 (9th Cir. 2009).

24 At the hearing, Deiman testified that he has held approximately twenty-one jobs in  
25 the past fifteen years due to “issue[s] getting along with [his] bosses, [his] fellow  
26 employees, and . . . get[ting] really bored easily and distracted.” (A.R. 48-49.) He stated,  
27 “I get easily distracted. I need something different and new. So I get frustrated in my  
28 jobs and tend to have issues. And either I walk out or I get fired.” (*Id.* at 49.) Deiman

1 testified that he has problems with his bosses and coworkers because he “doesn’t take too  
2 kindly to being talked down to and it would happen pretty much at every job[.]” (*Id.*) He  
3 also disliked “having to take on everyone else’s workload because everyone else is lazy.”  
4 (*Id.*)

5 The longest job Deiman sustained was eleven months when he worked at  
6 Blockbuster Video. (*Id.*) It ended because he disagreed with new management. (*Id.* at  
7 50.) Deiman noted that he occasionally has problems getting along with the general  
8 public, but that “mostly it’s my coworkers.” (*Id.*) He stated that problems with  
9 customers generally resulted from “[p]eople’s attitudes when they come in.” (*Id.*)

10 Deiman testified that he is diagnosed as seriously mentally ill and suffers from  
11 bipolar disorder, depression, anxiety and OCD. (*Id.*) He experiences “highs and lows” in  
12 his mood, but experiences more of the “high” end of the spectrum. (*Id.* at 51.) This  
13 results in panic attacks, “shaking, sweaty palms, pain in the chest, headaches,” and his  
14 mind races, which causes difficulty sleeping. (*Id.*) He experiences a small panic attack  
15 every three months. (*Id.* at 54.) During the “high” phases he begins several projects but  
16 rarely finishes them. (*Id.* at 52.) His “highs” can last several months, but he will then  
17 experience a “low” where he is depressed and has attempted suicide. (*Id.*) These “low”  
18 periods last for a month or two. (*Id.*) Deiman has two service dogs that help him with  
19 his depression and mood swings. (*Id.* at 53.) He noted that it takes him longer to  
20 complete tasks due to his OCD. (*Id.* at 53.) He has lost friends because of his mental  
21 impairments because he “doesn’t put up with much . . . BS.” (*Id.* at 54.)

22 With his friends, Deiman watches movies, plays video games, goes to the dog  
23 park, and sometimes “just hang[s] out and talk[s] for hours about music and world  
24 events.” (*Id.*) He takes medication for his mental impairments, and the medications help  
25 his symptoms. (*Id.* at 55.) They also help him get along with other people and he has  
26 “learned to take a lot more stuff in stride . . . being on medication.” (*Id.* at 56.) Deiman  
27 uses medicinal marijuana to help with sleeping and mood. (*Id.* at 57.)

28 The ALJ provided four reasons for discounting Deiman’s credibility regarding the

1 severity of his symptoms. First, the ALJ noted that Deiman engaged in work activity  
2 after the alleged onset date, which indicates that his “daily activities have, at least at  
3 times, been somewhat greater than the claimant has generally reported.” (*Id.* at 34.)  
4 Second, the ALJ noted that Deiman’s reported daily activities are inconsistent with his  
5 allegations regarding the severity of his symptoms. (*Id.*) Third, treatment and  
6 medication have been generally successful in controlling his mental symptoms. (*Id.*)  
7 Fourth, Deiman has made statements suggestive of poor work motivation. (*Id.* at 35.)

8 “Evidence of work after the onset date is relevant to a claimant’s credibility.”  
9 *Defrees v. Colvin*, No. CV-15-00339-PHX-DGC, 2015 WL 5675282, at \*5 (D. Ariz.  
10 Sept. 28, 2015); *see also Greger v. Barnhart*, 464 F.3d 968, 972 (9th Cir. 2006) (evidence  
11 that claimant performed work “under the table” after the date of last insured is a clear and  
12 convincing reason for discrediting claimant testimony). Here, the ALJ noted that Deiman  
13 reported beginning a new job in July 2012, (A.R. 717), and that he worked as a rickshaw  
14 driver in November 2012 and January 2013, (*Id.* at 867). Deiman claims these jobs  
15 corroborate his testimony because they evidence his inability to maintain the jobs. (Doc.  
16 16 at 12.) But Deiman provides no evidence that he quit these jobs because of his  
17 symptoms, and his own testimony demonstrates that he generally could not maintain  
18 work because he does not get along with his coworkers and is easily distracted. (A.R.  
19 50.) The ALJ reasonably relied on Deiman’s ability to work after the onset date as  
20 evidence that his daily activities are “somewhat greater than normal,” and thus this reason  
21 for discounting Deiman’s testimony is sufficient.

22 “[W]hether the claimant engaged in daily activities inconsistent with the alleged  
23 symptoms” is relevant to a claimant’s credibility. *Molina v. Astrue*, 674 F.3d 1104, 1112  
24 (9th Cir. 2012) (internal quotation marks omitted). “Even where those activities suggest  
25 some difficulty functioning, they may be grounds for discrediting the claimant’s  
26 testimony to the extent that they contradict claims of a totally debilitating impairment.”  
27 *Id.* at 1113. The ALJ noted that Deiman engages in “daily activities consistent with good  
28 mental functioning, including cooking, hiking, swimming, skateboarding, woodworking,

1 shopping for groceries, working out, walking his dog[s] and lifting heavy furniture.”  
2 (A.R. 34.) Deiman also worked part-time as a rickshaw driver, which involves contact  
3 with the general public, worked on the computer, read, and socialized with friends. (*Id.*)  
4 Deiman argues that merely referencing these activities is insufficient, and that the ALJ  
5 failed to find these activities were inconsistent with Deiman’s claimed limitations. (Doc.  
6 16 at 13-14.) He also claims the ALJ ignored his history of aggression and anger-control  
7 issues. (*Id.* at 15.) The Court disagrees.

8 Deiman alleges that he cannot perform basic work-related activities, but his ability  
9 to perform his daily activities of living without difficulty, as well as his ability to  
10 socialize with friends, undermines his claims that his mental impairments render him  
11 unable to work at all. Furthermore, the ALJ noted that “[m]ental status examinations  
12 revealed infrequent anxiety, polite demeanor, good eye contact, cooperative behavior and  
13 positive attitude.” (A.R. 34.) This undermines Deiman’s claim that he cannot interact  
14 with coworkers and supervisors. Again, Deiman’s own testimony suggests he does not  
15 get along with coworkers because he is not satisfied with his job duties, which makes him  
16 disinterested. In fact, when asked why he has held so many short-term jobs, he does not  
17 cite his mental impairments, but rather his boredom, distraction, and dislike of being  
18 “talked down to.” (*Id.* at 48-49.) This reason for discounting Deiman’s testimony is  
19 sufficient.

20 An ALJ may discount a claimant’s credibility if the “statements at [his] hearing do  
21 not comport with objective evidence in [his] medical record.” *Bray*, 554 F.3d at 1227.  
22 Here, the ALJ concluded that treatment and medication have been successful in  
23 managing Deiman’s symptoms. (A.R. 34.) Indeed, while using his medication and  
24 attending counseling, Deiman’s mental status examinations “were predominately  
25 unremarkable and the severity of his symptoms was described as mild-to-moderate.”  
26 (*Id.*) Deiman argues his treatment was not successful, citing medical reports and records  
27 from 2003, 2004, 2009, and 2010 documenting suicidal thoughts and attempts. (Doc. 16  
28 at 9.) He also points to the August 2010 SMI determination and accuses the ALJ of

1 relying on a “few isolated records.” (*Id.* at 8-9.) But, as the ALJ noted, the medical  
2 evidence indicates that Deiman began to improve in October 2010. (A.R. 33.) In May  
3 2011, Deiman reported that his medications were “working well” and denied side effects.  
4 (*Id.*) In October 2011, his mental status exam was unremarkable, and he was noted as  
5 being stable and improved. (*Id.*) He exhibited positive behavior at his examinations and  
6 in February 2013, he reported “feeling fine” and that he was having trouble finding a job,  
7 not because of his mental symptoms, but because “he has a felony 3 charge against him.”  
8 (*Id.* at 856-58.) In May 2012, he stated he is “doing well and is spending more time with  
9 his girlfriend.” (*Id.* at 840.) The ALJ noted that although Deiman “has a long history of  
10 mental illness . . . with treatment, his mental symptoms were no more than mild-to-  
11 moderate and did not preclude him from engaging in good daily activities and  
12 maintaining an active social life.” (*Id.* at 33.) The ALJ’s finding is reasonable in light of  
13 the medical records, *see Morgan v. Comm’r of Soc. Sec. Admin.*, 169 F.3d 595, 599 (9th  
14 Cir. 1999) (“Where the evidence is susceptible to more than one rational interpretation, it  
15 is the ALJ’s conclusion that must be upheld.”), and thus this reason for discounting  
16 Deiman’s testimony is sufficient.

17 The ALJ may also rely other evidence such as poor work history in evaluating a  
18 claimant’s credibility. *See Thomas*, 278 F.3d at 959. Here, the ALJ concluded that  
19 Deiman made statements suggestive of poor work motivation. (A.R. 35.) For example,  
20 in February 2013, a therapist recommended that Deiman seek a telemarketing job, but  
21 Deiman stated that “[h]e wasn’t really looking for that type of work.” (*Id.*) In addition,  
22 Deiman noted that he was having trouble finding a job because of his felony conviction,  
23 not because of his mental impairments. Furthermore, Deiman’s testimony suggests that  
24 he does not respond well to being told what to do, which leads to problems with his  
25 supervisors and coworkers. In fact, he told his consulting psychologist that he “does not  
26 like supervision or following direction” and that he “has ‘walked off’ several jobs[.]” (*Id.*  
27 at 758.) The Court finds the ALJ’s interpretation of the evidence is reasonable, and this  
28 reason for discounting Deiman’s testimony is sufficient.

1 In conclusion, the Court finds the ALJ provided specific, clear, and convincing  
2 reasons for discounting Deiman’s credibility regarding the severity of his symptoms, and  
3 that those reasons are supported by substantial evidence. *Vasquez*, 572 F.3d at 591.<sup>2</sup>

4 **B. The ALJ Did Not Err in Evaluating the Medical Source Evidence**

5 Deiman argues the ALJ erred in discounting the opinions of Dr. Safdar Ali and Dr.  
6 Ronn Lavit. He also argues the ALJ erred in affording significant weight to the opinion  
7 of Dr. Susan Dougherty. The Court disagrees.

8 **1. Legal Standard**

9 In weighing medical source opinions in Social Security cases, the Ninth Circuit  
10 distinguishes among three types of physicians: (1) treating physicians, who actually treat  
11 the claimant; (2) examining physicians, who examine but do not treat the claimant; and  
12 (3) non-examining physicians, who neither treat nor examine the claimant. *Lester v.*  
13 *Chater*, 81 F.3d 821, 830 (9th Cir. 1995). Generally, more weight should be given to the  
14 opinion of a treating physician than to the opinions of non-treating physicians. *Id.* A  
15 treating physician’s opinion is afforded great weight because such physicians are  
16 “employed to cure and [have] a greater opportunity to observe and know the patient as an  
17 individual.” *Sprague v. Bowen*, 812 F.2d 1226, 1230 (9th Cir. 1987). Where a treating  
18 physician’s opinion is not contradicted by another physician, it may be rejected only for  
19 “clear and convincing” reasons, and where it is contradicted, it may not be rejected  
20 without “specific and legitimate reasons” supported by substantial evidence in the record.  
21 *Lester*, 81 F.3d at 830. Moreover, the Commissioner must give weight to the treating

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23 <sup>2</sup> Deiman also claims the ALJ improperly discredited his mother’s testimony.  
24 (Doc. 16 at 7.) Deiman’s mother, Candi Devereaux, submitted a Third Party Adult  
25 Function Report describing Deiman’s symptoms, daily activities of living, social  
26 activities, and other information regarding his condition. (A.R. 154-63.) An ALJ must  
27 provide germane reasons for rejecting lay witness testimony. *Molina*, 674 F.3d at 1114.  
28 Here, the ALJ noted that Devereaux’s “statements appear to be mere extensions of the  
claimant’s own allegations,” and thus the ALJ rejected her testimony for the same  
reasons he rejected Deiman’s testimony. (A.R. 35.) An ALJ may rely on the same clear  
and convincing reasons cited for rejecting a claimant’s testimony to reject a family  
member’s testimony that appears to be a restatement of the claimant’s testimony. *See*  
*Valentine v. Comm’r of Soc. Sec. Admin.*, 574 F.3d 685, 694 (9th Cir. 2009). Because the  
ALJ provided clear and convincing reasons for rejecting Deiman’s testimony, he did not  
err in rejecting Devereaux’s testimony.

1 physician's subjective judgments in addition to his clinical findings and interpretation of  
2 test results. *Id.* at 832-33.

### 3 **2. Dr. Safdar Ali**

4 Dr. Safdar Ali, a psychiatrist, treated Deiman for his mental conditions for several  
5 years and submitted two opinions in his regard. Deiman argues the ALJ erred in (1)  
6 disregarding one of Dr. Ali's opinions entirely, and (2) failing to "identify specific  
7 records and provide his interpretation of *how* they were at odds with Dr. Ali's assessed  
8 limitations." (Doc. 16 at 19.) Deiman also argues, without analysis, that the ALJ's  
9 finding that Dr. Ali's opinions were inconsistent with the evidence in the record is  
10 unfounded. (*Id.*) Dr. Ali's opinions were contradicted by the opinions of Dr. Ronn Lavit  
11 and Dr. Susan Daugherty, both of whom assessed lesser mental limitations. Therefore,  
12 the ALJ was required to provide specific and legitimate reasons supported by substantial  
13 evidence for discounting Dr. Ali's opinions. *See Lester*, 81 F.3d at 830.

14 In support of Deiman's claim, Dr. Ali submitted two medical opinions. The first,  
15 dated July 2011, is a "Certification of Disability for Eligibility Purposes" form. (A.R.  
16 658-59.) The form contains three definitions of disability, including the definition  
17 prescribed under the Social Security Act, and contains a section entitled "Certification of  
18 Disability" with the following sentence: "In my professional opinion, the application  
19 DOES/DOES NOT meet the definition of a Disabled Person, as defined above." (*Id.* at  
20 659.) Dr. Ali circled "DOES" and signed and dated the form. But the form contains no  
21 explanation, clinical evidence, or observations to support the conclusion. Nor does it  
22 specify, at a minimum, whether Deiman suffers from a physical, mental, or emotional  
23 impairment. This opinion is simply not probative as to whether Deiman is disabled, and  
24 therefore the ALJ did not err by disregarding it. *See Vincent ex rel. Vincent v. Heckler*,  
25 739 F.2d 1393, 1395 (9th Cir. 1984) (noting that An ALJ need not discuss all of the  
26 evidence in the record, only "significant probative evidence") (internal quotation marks  
27 omitted).

28 The second opinion, dated July 2013, is a "Medical Assessment of Claimant's

1 Ability to Perform Work Related Activities (Mental).” (A.R. 875-77.) Therein, Dr. Ali  
2 indicated that Deiman’s mental impairments severely impacted his ability to relate to  
3 other people; his ability to understand, carry out, and remember instructions; and his  
4 ability to respond to customary work pressures. (*Id.* at 875.) Dr. Ali indicated that  
5 Deiman had “moderately severe” limitations in his ability to respond appropriately to  
6 supervision and respond appropriately to co-workers. (*Id.*) Dr. Ali further noted that  
7 Deiman was “moderately” limited in his ability to sustain work pace due to his  
8 impairments. (*Id.* at 876.) In the “comments” section, Dr. Ali wrote: “Patient suffers  
9 from chronic serious mental illness.” (*Id.*)

10 The ALJ assessed reduced weight to this opinion because “inconsistent with  
11 [Deiman’s] work activity after his alleged onset date, good daily activities, active social  
12 life, positive response to medication management and treatment notes documenting  
13 predominately mild-to-moderate symptoms.” (A.R. 35.) Inconsistency with the  
14 claimant’s daily activities and work activity is a sufficient reason to discount medical  
15 opinion testimony. *See* 20 C.F.R. §§ 404.1527(c)(4), 416.927(c)(4). Here, the ALJ noted  
16 that Deiman reported that he worked as a rickshaw driver, a job that requires significant  
17 interaction with the general public, in June 2012. (*Id.* at 33.) Deiman also reported an  
18 active social life and good daily activities, such as spending time with his girlfriend,  
19 hiking, skateboarding, spending time with friends, and walking his dogs. (*Id.*) These  
20 activities are inconsistent with Dr. Ali’s July 2013 conclusions that Deiman has severe or  
21 moderately severe limitations in relating to other people, co-workers, and supervisors.

22 In addition, an ALJ may reject opinion testimony that is contrary to demonstrated  
23 improvement with medication and medical treatment. *See Orn*, 495 F.3d at 631. Deiman  
24 claims the ALJ failed to set forth his own interpretations of the evidence and failed to  
25 acknowledge the positive medical findings that supported a finding of disability. (Doc.  
26 16 at 9.) But the ALJ thoroughly summarized Dr. Ali’s treatment notes on the preceding  
27 page and specifically referred to notes that favored Deiman’s case. For example, the ALJ  
28 states that “[i]n January 2012 and April 2012, [Deiman’s] mental symptoms were

1 moderate due to increase[d] anxiety symptoms. (A.R. 33.) The ALJ then notes that, “by  
2 May 2012, his mental symptoms improved; he exhibited polite behavior, pleasant  
3 demeanor and good grooming.” (*Id.*) The ALJ also noted that in February 2013, Deiman  
4 reported “feeling fine” and “denied symptoms of mania, psychosis, depression and  
5 anger.” (*Id.*) Dr. Ali’s unsupported conclusions conflict with Deiman’s self-reported  
6 improvement, and thus the ALJ properly concluded that Dr. Ali’s opinion was  
7 inconsistent with Deiman’s positive response to treatment.

8 Deiman claims that the ALJ’s reasons are unsupported by the evidence. However,  
9 Deiman offers no explanation, points to no inconsistencies, and fails to cite a single piece  
10 of contradictory medical evidence in the record. In contrast, the ALJ thoroughly  
11 summarized all of the key medical evidence, offered his interpretation, and set forth  
12 specific and legitimate reasons supported by substantial evidence for discounting Dr.  
13 Ali’s medical opinion. *See Lester*, 81 F.3d at 830.

### 14 **3. Dr. Ronn Lavit**

15 In December 2012, Dr. Ronn Lavit, a consultative psychologist, examined Deiman  
16 and assessed his capacity for mental work-related activities. (A.R. 758-64.) Dr. Lavit  
17 opined that Deiman was unimpaired in his ability to “understand and remember simple  
18 and complex instructions;” may be impaired in his ability to “sustain a normal routine  
19 without special supervision due to mood swings, depression, anxiety/panic attacks and  
20 not respecting authority figures;” may be impaired in his ability to “get along with c-  
21 workers, respond appropriately to supervision and maintain socially appropriate  
22 behavior;” would most likely “require a smaller work environment with limited  
23 interaction with others;” and “may have limitations in his ability to respond appropriately  
24 to heightened stresses/changes in the workplace.” (*Id.* at 764.) The ALJ gave  
25 “significant weight to Dr. Lavit’s opinion regarding [Deiman’s] ability to perform simple  
26 and complex instructions because it is consistent with his daily activities and mental  
27 status examinations documenting good intellect, intact cognition and good  
28 concentration.” (*Id.* at 35.) Significant weight was also afforded to the conclusion that

1 Deiman had the ability “to avoid normal hazards because it is consistent with [his] work  
2 activity as a rickshaw driver and mental status examinations documenting intact insight  
3 and intact judgment.” (*Id.*) The rest of Dr. Lavit’s opinion was afforded reduced weight  
4 “because it is somewhat vague and overly reliant on [Deiman’s] subjective complaints,  
5 which are inconsistent with treatment notes documenting an active social life, good daily  
6 activities, work activity in a public setting and mild-to-moderate symptom severity.”  
7 (*Id.*) The ALJ also noted that “Dr. Lavit’s opinion is overly restrictive considering  
8 [Deiman’s] infrequent anxiety, good concentration, intact memory, polite demeanor,  
9 good eye contact, cooperative behavior and positive attitude.” (*Id.*)

10 Deiman argues the ALJ should have given greater weight to Dr. Lavit’s opinion  
11 regarding social interaction because it found several areas of limited ability based on  
12 Deiman’s self-reports, medical records, and examination findings. (Doc. 16 at 21.)  
13 Deiman also claims Dr. Lavit found Deiman credible, and that the record as a whole  
14 demonstrates Deiman’s “extensive history of ongoing serious mental illness, including  
15 multiple suicide attempts; repeated episodes of suicide ideation; mood fluctuations;  
16 aggressive behavior; anger-control issues; difficulty interacting with others; and limited  
17 judgment, insight, and impulse control.” (*Id.* at 22.) But the ALJ set forth several  
18 specific reasons for discounting part of Dr. Lavit’s opinion, and the ALJ’s interpretation  
19 of the evidence is reasonable. Dr. Lavit’s report indicates that Deiman “takes medication  
20 and the medications work[s] a 8 out of 10 scale.” (A.R. 758.) The report documents an  
21 extensive list of social activities, including spending time with several friends, girlfriend,  
22 and interacting with over 375 Facebook friends. (*Id.* at 759.) In addition, Dr. Lavit’s  
23 findings regarding Deiman’s ability to interact with others appear to be based solely on  
24 Deiman’s reports, as the report documents that Deiman had appropriate hygiene, good  
25 eye contact, was cooperative with Dr. Lavit, exhibited normal trust, exhibited warmth  
26 during the exam, had appropriate mood, exhibited normal range of emotions, and was  
27 otherwise personable during the exam. (*Id.* at 760-61.) Indeed, several other medical  
28 records corroborate Deiman’s stable emotional state. (*Id.* at 35.) Furthermore, the ALJ

1 found Deiman’s testimony regarding the severity of his symptoms not credible, which  
2 undermines Dr. Lavit’s reliance on Deiman’s self-reported symptoms. In sum, the ALJ’s  
3 interpretation of the evidence is reasonable given the evidence in the record, *see Batson v.*  
4 *Comm’r of Soc. Sec. Admin.*, 359 F.3d 1190, 1193 (9th Cir. 2004) (noting that “the  
5 Commissioner’s findings are upheld if supported by inferences reasonably drawn from  
6 the record, and if evidence exists to support more than one rational interpretation, we  
7 must defer to the Commissioner’s decision”), and the Court finds the ALJ set forth  
8 specific and legitimate reasons supported by substantial evidence for discounting part of  
9 Dr. Lavit’s opinion.

#### 10 **4. Dr. Susan Daugherty**

11 In January 2013, Dr. Susan Daugherty, a non-examining State agency  
12 psychologist, reviewed Deiman’s medical records and submitted a Mental Residual  
13 Functional Capacity Assessment. (A.R. 769-86.) Dr. Daugherty opined that Deiman “is  
14 able to perform work where interpersonal contact is incidental to work performed, e.g.  
15 assembly work; complexity of tasks is learned and performed by rote, few variables, little  
16 judgment; supervision required is simple, direct and concrete (unskilled).” (*Id.* at 772.)  
17 The ALJ afforded great weight to Dr. Daugherty’s opinion “because it is consistent with  
18 [Deiman’s] occasionally anxious mood, diagnosis of borderline personality disorder with  
19 positive response [to] treatment, active social life, good daily activities and mild-to-  
20 moderate mental symptom[s].” (*Id.* at 36.)

21 Deiman argues Dr. Daugherty failed to link her assessment to specific evidence in  
22 the record, and thus the ALJ erred in affording her opinion great weight. (Doc. 16 at 23.)  
23 Deiman also argues the ALJ failed to explain how Dr. Daugherty’s opinion is consistent  
24 with the record. (*Id.* at 24.) He further argues that Dr. Daugherty’s opinion is not  
25 consistent with the record, and the ALJ failed to reconcile inconsistencies between his  
26 assessment and Dr. Daugherty’s assessment of the evidence. (*Id.*) The Court disagrees.

27 Dr. Daugherty provided an explanation of her findings and cited medical evidence  
28 in the record, (A.R. 772), and the ALJ adequately explained that Dr. Daugherty’s

1 assessment was consistent with the record medical evidence and cited several of those  
2 records, (*Id.* at 36). The ALJ’s assessment need not exactly mirror the assessment of the  
3 medical source opinion. It must take into account all relevant evidence, which the ALJ  
4 must then weigh, interpret, and offer his own conclusions. Moreover, Deiman challenges  
5 only one of the reasons cited by the ALJ: consistency with the medical evidence. But  
6 Deiman fails to explain how Dr. Daugherty’s assessment is inconsistent with the medical  
7 evidence. He merely states that these “limitations did not adequately account for Mr.  
8 Deiman’s impairments.” (Doc. 16 at 25.) Deiman also argues that he cannot work  
9 because he dislikes following supervision and following directions, which leads to  
10 confrontations with his supervisors. But Deiman does not connect his problem with  
11 authority to his mental condition. And the ALJ’s finding that Dr. Daugherty’s opinion is  
12 consistent with the medical record is reasonable. Consequently, the ALJ did not err in  
13 affording great weight to Dr. Daugherty’s assessment.

14 **C. The ALJ Did Not Err at Step Five**

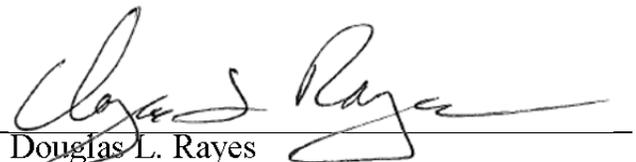
15 Deiman argues the ALJ erred in relying on the Medical-Vocational Guidelines  
16 (the “grids”) in determining that he could perform other work. (Doc. 16 at 25.) The grids  
17 “relieve the Secretary of the need to rely on vocational experts by establishing through  
18 rulemaking the types and numbers of jobs that exist in the national economy.” *Heckler v.*  
19 *Campbell*, 461 U.S. 458 (1952). They are a matrix of the claimant’s qualifications,  
20 including RFC, which correspond with jobs requiring certain combinations of the  
21 qualifications. *Id.* “Where a claimant’s qualifications correspond to the job requirements  
22 identified by a rule, the guidelines direct a conclusion as to whether work exists that the  
23 claimant could perform.” *Id.* “When the grids do no match the claimant’s qualifications,  
24 the ALJ can either (1) use the grids as a framework and make a determination of what  
25 work exists that the claimant can perform, or (2) rely on a vocational expert when the  
26 claimant has significant non-exertional limitations.” *Hoopai v. Astrue*, 499 F.3d 1071,  
27 1075 (9th Cir. 2007). However, “[w]hen a claimant’s non-exertional limitations are  
28 sufficiently severe so as to significantly limit the range of work permitted by the

1 claimant's exertional limitations, the grids are inapplicable." *Burkhart v. Bowen*, 856  
2 F.2d 1335, 1340 (9th Cir. 1988) (internal quotation marks omitted).

3 Deiman asserts the RFC contains severe non-exertional limitations not accounted  
4 for in the grids; specifically that he was limited to "simple, routine and unskilled work"  
5 with no public contact. (*Id.*) But the ALJ found that the occupational base of work at  
6 any exertional level is not significantly eroded where the claimant is precluded from  
7 public contact and limited to simple, routine and unskilled work. (A.R. 36.) In other  
8 words, the limitations are no so severe as to limit the types of jobs Deiman can perform.  
9 Deiman fails to challenge these findings. As such, the ALJ reasonably relied on the grids  
10 as a framework in determining whether Deiman could perform other work. *See Hoopai*,  
11 499 F.3d at 1075.

12 **IT IS ORDERED** that the final decision of the Commissioner of Social Security  
13 is **AFFIRMED**. The Clerk shall enter judgment accordingly and terminate this case.

14 Dated this 27<sup>th</sup> day of April, 2016.

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18 Douglas L. Rayes  
19 United States District Judge  
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