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

9 Amy Lou Finnegan-Crews,

No. CV-18-00172-PHX-GMS

10 Plaintiff,

**ORDER**

11 v.

12 Commissioner of Social Security  
13 Administration,

14 Defendant.

15 Pending before the Court is the appeal of Plaintiff Amy Lou Finnegan-Crews, which  
16 challenges the Social Security Administration's decision to deny benefits. (Doc. 16). For  
17 the following reasons, the Court will affirm the ALJ's decision.

18 **BACKGROUND**

19 On January 31, 2014 Plaintiff applied for disability insurance benefits, alleging a  
20 disability onset date of November 6, 2013. (Tr. at 10). Plaintiff's claim was denied both  
21 initially and upon reconsideration. (Tr. at 80; Tr. at 110). Plaintiff then appealed to an  
22 Administrative Law Judge ("ALJ"). (Tr. at 10). The ALJ conducted a hearing on the  
23 matter on August 16, 2016, and subsequently issued a decision denying benefits. (*Id.*).  
24 Plaintiff then appealed her decision to the Appeals Council, which denied her request for  
25 review. (Tr. at 1).

26 In evaluating whether Plaintiff was disabled, the ALJ undertook the five-step  
27 sequential evaluation for determining disability. (Tr. at 11-16). At step one, the ALJ  
28 determined that Plaintiff had not engaged in substantial gainful activity since the alleged

1 onset date. (Tr. at 13). At step two, the ALJ determined that Plaintiff suffered from the  
2 severe impairments of arthritis, obesity, bipolar disorder, borderline personality disorder,  
3 and post-traumatic stress disorder. (*Id.*). At step three, the ALJ determined that none of  
4 these impairments, either alone or in combination, met or equaled any of the Social  
5 Security Administration’s listed impairments. (Tr. at 14).

6 At that point, the ALJ determined Plaintiff’s residual functional capacity (“RFC”),  
7 concluding that Plaintiff could perform light work prior to August 25, 2015. (Tr. at 32).  
8 The ALJ determined at step four that Plaintiff had no past relevant work. (Tr. at 22). At  
9 step five, the ALJ determined that Finnegan-Crews could perform other jobs identified in  
10 the vocational expert’s responses. (Tr. at 23).

## 11 DISCUSSION

### 12 I. Standard of Review

13 A reviewing federal court will only address the issues raised by the claimant in the  
14 appeal from the ALJ’s decision. *See Lewis v. Apfel*, 236 F.3d 503, 517 n.13 (9th Cir. 2001).  
15 A federal court may set aside a denial of disability benefits only if that denial is either  
16 unsupported by substantial evidence or based on legal error. *Thomas v. Barnhart*, 278 F.3d  
17 947, 954 (9th Cir. 2002). Substantial evidence is “more than a scintilla but less than a  
18 preponderance.” *Id.* (quotation omitted). “Substantial evidence is relevant evidence  
19 which, considering the record as a whole, a reasonable person might accept as adequate to  
20 support a conclusion.” *Id.* (quotation omitted).

21 However, the ALJ is responsible for resolving conflicts in testimony, determining  
22 credibility, and resolving ambiguities. *See Andrews v. Shalala*, 53 F.3d 1035, 1039 (9th  
23 Cir. 1995). “When the evidence before the ALJ is subject to more than one rational  
24 interpretation, we must defer to the ALJ’s conclusion.” *Batson v. Comm’r of Soc. Sec.*  
25 *Admin.*, 359 F.3d 1190, 1198 (9th Cir. 2004). This is because “[t]he [ALJ] and not the  
26 reviewing court must resolve conflicts in evidence, and if the evidence can support either  
27 outcome, the court may not substitute its judgment for that of the ALJ.” *Matney v. Sullivan*,  
28 981 F.2d 1016, 1019 (9th Cir. 1992) (citations omitted).

1 **II. Analysis**

2 **A. ALJ's Evaluation of Dr. Krolik's Opinion**

3 "To reject the uncontradicted opinion of a treating or examining doctor, an ALJ  
4 must state clear and convincing reasons that are supported by substantial evidence." *Revels*  
5 *v. Berryhill*, 874 F.3d 648, 654 (9th Cir. 2017) (internal citations and quotation marks  
6 omitted). "[T]he opinion of a nonexamining physician cannot by itself constitute  
7 substantial evidence that justifies the rejection of the opinion of either an examining  
8 physician or a treating physician." *Id.* (emphasis in original) (internal quotation marks  
9 and citations omitted). But if a treating doctor's opinion is contradicted by another  
10 nonexamining physician, it may then be rejected for "specific and legitimate reasons  
11 supported by substantial evidence in the record for so doing." *Lester v. Chater*, 81 F.3d  
12 821, 830 (9th Cir. 1995).

13 The ALJ discredited the opinion of Ms. Finnegan-Crews's treating physician, Dr.  
14 Krolik, for three reasons. The ALJ found that Dr. Krolik's alleged limitations were  
15 inconsistent with her own treatment records, the degree of limitation alleged by Dr. Krolik  
16 was inconsistent with the claimant's daily activities, and that Dr. Krolik's assessment was  
17 overly sympathetic and not based on the clinical evidence. (Tr. at 21). In her limitation  
18 assessment, dated September 12, 2014, Dr. Krolik specifically found that "claimant had  
19 extreme limitations in her ability to communicate with coworkers, supervisors" and that  
20 "claimant would miss more than 5 days each month." (Tr. at 20).

21 Here, the ALJ pointed to contemporaneous treatment notes from three separate  
22 appointments to support her decision to give Dr. Krolik's assessment less weight. On June  
23 5, 2014, Dr. Jaffee noted that claimant was responding well to medication as it related to  
24 flashbacks and nightmares. (Tr. at 387). On September 5, 2014, Dr. Krolik found that Ms.  
25 Finnegan-Crew continued to respond well to medication, and she was sleeping well again.  
26 (Tr. 384). And on September 26, 2014—just two weeks after Dr. Krolik made her limiting  
27 assessment—Dr. Krolik found that claimant was emotionally stable with a normal sleep  
28 pattern. (Tr. at 387).

1           As Ms. Finnegan-Crews notes, subsequent evaluations performed in 2015 and 2016  
2 are more consistent with the limitations alleged by Dr. Krolik. (Doc. 16 at 12). But those  
3 subsequent findings are not particularly probative when evaluating Dr. Krolik’s 2014  
4 limitation assessment. The fact that treatment notes around the time of the questionnaire  
5 are inconsistent with the severe limitations alleged is a “specific and legitimate” reason for  
6 discounting Dr. Krolik’s testimony. *Lester*, 81 F.3d 821. Thus, the ALJ did not err in  
7 discounting her testimony.

8           **B. Evaluation of Ms. Finnegan-Crew’s Symptom Testimony**

9           When a claimant alleges subjective symptoms, like pain, the ALJ must follow a  
10 two-step analysis to decide whether to credit the claimant’s testimony. First, the claimant  
11 “must produce objective medical evidence of an underlying impairment which could  
12 reasonably be expected to produce the pain or other symptoms alleged.” *Smolen v. Chater*,  
13 80 F.3d 1273, 1281 (9th Cir. 1996). The claimant does not need to show “that her  
14 impairment could reasonably be expected to cause the severity of the symptom she has  
15 alleged; she need only show that it could reasonably have caused some degree of the  
16 symptom.” *Smolen*, 80 F.3d at 1282. Second, if the claimant can make the showing  
17 required in the first step and the ALJ does not find any evidence of malingering, “the ALJ  
18 can reject the claimant’s testimony about the severity of her symptoms only by offering  
19 specific, clear and convincing reasons for doing so.” *Id.* at 1281.

20           At the second step, if the “evidence reasonably supports either confirming or  
21 reversing the ALJ’s decision, [the Court] may not substitute [its] judgment for that of the  
22 ALJ.” *Batson v. Comm’r of Soc. Sec. Admin.*, 359 F.3d 1190, 1196 (9th Cir. 2004) (citing  
23 *Tackett v. Apfel*, 180 F.3d 1094, 1098 (9th Cir. 1999)). But the Court “may not affirm [the  
24 ALJ’s decision] simply by isolating a specific quantum of supporting evidence.” *Jones v.*  
25 *Heckler*, 760 F.2d 993, 995 (9th Cir. 1985). When evaluating symptom testimony,  
26 “[g]eneral findings are insufficient; rather, the ALJ must identify what testimony is not  
27 credible and what evidence undermines the claimant’s complaints.” *Ghanim v. Colvin*,  
28 763 F.3d 1154, 1163 (9th Cir. 2014).

1                                   **1.     Symptom Testimony Regarding Hip Impairment**

2             In 2006, Ms. Finnegan-Crews was in a motor vehicle accident and suffered a broken  
3 right hip. She then underwent hip surgery and placement of hardware. In 2012, the  
4 hardware was removed. Due to this impairment, claimant testified that she could “sit for  
5 30 minutes, stand for 15 minutes and not walk very far.” (Tr. at 17).

6             At the first step, the ALJ found that Ms. Finnegan-Crews’ underlying impairments  
7 could reasonably be expected to produce the symptoms alleged. (Tr. at 17). The ALJ did  
8 not find any evidence of malingering. (*Id.*). But the ALJ nonetheless found that “the  
9 claimant’s statements regarding the intensity, persistence, and limiting effects of these  
10 symptoms” were inconsistent with the medical evidence and other evidence in the record.  
11 (Tr. at 17). The ALJ gave several reasons for this conclusion.

12             First, the ALJ noted that the treatment method regarding claimant’s hip pain has  
13 been conservative and consisted only of medication and injection therapy, as opposed to  
14 additional surgeries. “A conservative treatment path is sufficient to discount a claimant’s  
15 testimony regarding the severity of the impairment.” *Parra v. Astrue*, 481 F.3d 742, 750–  
16 751 (9th Cir. 2007). The ALJ reasoned that “with claimant’s alleged severity of pain and  
17 limitations, one would expect more significant findings regarding the diagnostic imaging  
18 and exams as well as more complex treatment.” (Tr. at 19). Second, the ALJ noted that  
19 Ms. Finnegan-Crews’ treating physicians did not place any restrictions on her physical  
20 movement—which is inconsistent with her claims of totally disabling symptoms. The  
21 ALJ similarly noted that while the claimant did allege daily activities that were limited,  
22 those activities were not as limited as one would expect from someone with claimant’s  
23 alleged level of impairment. Finally, the ALJ simply noted that any pain she was  
24 experiencing from her hip impairment appeared to be controlled by medication. (Tr. at  
25 18).

26             The ALJ gave specific, clear and convincing reasons for discounting claimant’s  
27 testimony as to the debilitating effects of her hip impairment.

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1 claimant spent time going out with her friends, swimming, and that she had recently  
2 attended cosmetology school for six months. Taken together, the ALJ articulated reasons  
3 supported by the record, to support its conclusion as to claimant's symptom testimony.

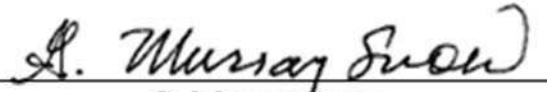
4 **CONCLUSION**

5 The ALJ made no error of law and there is substantial evidence to support the ALJ's  
6 decision.

7 **IT IS THEREFORE ORDERED** that the ALJ's decision is **AFFIRMED**.

8 **IT IS FURTHER ORDERED** that the Clerk of the Court is directed  
9 to **TERMINATE** this action and enter judgment accordingly.

10 Dated this 25th day of March, 2019.

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13 G. Murray Snow  
14 Chief United States District Judge