Grubbs v. Colvin
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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA
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9 Kelly Joe Grubbs,)	CIV 14-8128-PCT-MHB
)	
10 Plaintiff,)	**ORDER**
)	
11 vs.)	
)	
12 Carolyn W. Colvin, Commissioner of the) Social Security Administration,)	
13)	
Defendant.)	
14 ___________________________________)	

15 Pending before the Court is Plaintiff Kelly Joe Grubbs's appeal from the Social
16 Security Administration's final decision to deny her claim for supplemental security income.
17 After reviewing the administrative record and the arguments of the parties, the Court now
18 issues the following ruling.

19 **I. PROCEDURAL HISTORY**

20 Plaintiff filed an application for supplemental security income in April 2011, alleging
21 disability beginning April 20, 2011. (Transcript of Administrative Record ("Tr.") at 62, 148-
22 57, 182.) His application was denied initially and on reconsideration. (Tr. at 32-41, 44-58.)
23 Thereafter, Plaintiff requested a hearing before an administrative law judge, and a hearing
24 was held on January 16, 2013. (Tr. at 6-31.) On February 25, 2013, the ALJ issued a
25 decision finding that Plaintiff was not disabled. (Tr. at 59-79.) The Appeals Council denied
26 Plaintiff's request for review (Tr. at 1-5), making the ALJ's decision the final decision of the
27 Commissioner. Plaintiff then sought judicial review of the ALJ's decision pursuant to 42
28 U.S.C. § 405(g).

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II. STANDARD OF REVIEW

The Court must affirm the ALJ's findings if the findings are supported by substantial evidence and are free from reversible legal error. See Reddick v. Chater, 157 F.3d 715, 720 (9th Cir. 1998); Marcia v. Sullivan, 900 F.2d 172, 174 (9th Cir. 1990). Substantial evidence means "more than a mere scintilla" and "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." Richardson v. Perales, 402 U.S. 389, 401 (1971); see Reddick, 157 F.3d at 720.

In determining whether substantial evidence supports a decision, the Court considers the administrative record as a whole, weighing both the evidence that supports and the evidence that detracts from the ALJ's conclusion. See Reddick, 157 F.3d at 720. "The ALJ is responsible for determining credibility, resolving conflicts in medical testimony, and for resolving ambiguities." Andrews v. Shalala, 53 F.3d 1035, 1039 (9th Cir. 1995); see Magallanes v. Bowen, 881 F.2d 747, 750 (9th Cir. 1989). "If the evidence can reasonably support either affirming or reversing the [Commissioner's] conclusion, the court may not substitute its judgment for that of the [Commissioner]." Reddick, 157 F.3d at 720-21.

III. THE ALJ'S FINDINGS

In order to be eligible for disability or social security benefits, a claimant must demonstrate an "inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months." 42 U.S.C. § 423(d)(1)(A). An ALJ determines a claimant's eligibility for benefits by following a five-step sequential evaluation:

> (1) determine whether the applicant is engaged in "substantial gainful activity";
>
> (2) determine whether the applicant has a medically severe impairment or combination of impairments;
>
> (3) determine whether the applicant's impairment equals one of a number of listed impairments that the Commissioner acknowledges as so severe as to preclude the applicant from engaging in substantial gainful activity;

(4) if the applicant's impairment does not equal one of the listed impairments, determine whether the applicant is capable of performing his or her past relevant work;

(5) if the applicant is not capable of performing his or her past relevant work, determine whether the applicant is able to perform other work in the national economy in view of his age, education, and work experience.

See Bowen v. Yuckert, 482 U.S. 137, 140-42 (1987) (citing 20 C.F.R. §§ 404.1520, 416.920). At the fifth stage, the burden of proof shifts to the Commissioner to show that the claimant can perform other substantial gainful work. See Penny v. Sullivan, 2 F.3d 953, 956 (9th Cir. 1993).

At step one, the ALJ determined that Plaintiff had not engaged in substantial gainful activity since April 20, 2011 – the alleged onset date. (Tr. at 64.) At step two, she found that Plaintiff had the following severe impairments: obesity, lumbar degenerative disc disease, and major depressive disorder. (Tr. at 64-65.) At step three, the ALJ stated that Plaintiff did not have an impairment or combination of impairments that met or medically equaled an impairment listed in 20 C.F.R. Part 404, Subpart P, Appendix 1 of the Commissioner's regulations. (Tr. at 65-66.) After consideration of the entire record, the ALJ found that Plaintiff retained "the residual functional capacity to perform light work as defined in 20 CFR 416.967(b). He can frequently operate foot controls with the left lower extremity. He can occasionally climb ladders, ropes, and scaffolds. He can frequently climb ramps and stairs. He can frequently balance, stoop, kneel, crouch and crawl. Left overhead reaching is limited to occasional. He should avoid concentrated exposure to dangerous machinery with moving mechanical parts and unprotected heights that are high or exposed. He is limited to simple, routine and repetitive tasks. He is limited to occasional interaction with others, including the public, co-workers and supervisors. He is unable to work in tandem with others, but he can still be in the vicinity of others. He should be employed in a low stress job, which the undersigned defines as work with only occasional decision-making required, occasional changes in the work setting, and no fast-paced production rate

requirements."[1] (Tr. at 66-72.) The ALJ determined that Plaintiff is unable to perform any past relevant work, but that considering Plaintiff's age, education, work experience, and residual functional capacity, there are jobs that exist in significant numbers in the national economy that Plaintiff can perform. (Tr. at 72-73.)

Therefore, the ALJ concluded that Plaintiff "has not been under a disability ... since April 20, 2011, the date the application was filed." (Tr. at 73-74.)

IV. DISCUSSION

In his brief, Plaintiff contends that the ALJ erred by: (1) failing to properly weigh medical source opinion evidence; (2) failing to properly consider his subjective complaints; and (3) failing to properly assess his residual functional capacity. Plaintiff requests that the Court remand for determination of benefits.

A. Medical Source Opinion Evidence

Plaintiff contends that the ALJ erred by rejecting "treating provider opinions contrary to case law and regulations." Plaintiff appears to refer to the opinions of Physician's Assistant, Robert Nordman; Don Graber, M.D.; F.S. Gagliardi, M.D.; K.E. Apodaca, M.D.; and Aileen Lee, Ph.D.

"The ALJ is responsible for resolving conflicts in the medical record." Carmickle v. Comm'r, Soc. Sec. Admin., 533 F.3d at 1164. Such conflicts may arise between a treating physician's medical opinion and other evidence in the claimant's record. In weighing medical source opinions in Social Security cases, the Ninth Circuit distinguishes among three types of physicians: (1) treating physicians, who actually treat the claimant; (2) examining physicians, who examine but do not treat the claimant; and (3) non-examining physicians, who neither treat nor examine the claimant. See Lester v. Chater, 81 F.3d 821, 830 (9th Cir. 1995). The Ninth Circuit has held that a treating physician's opinion is entitled to "substantial weight." Bray v. Comm'r, Soc. Sec. Admin., 554 F.3d 1219, 1228 (9th Cir.

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[1] "Residual functional capacity" is defined as the most a claimant can do after considering the effects of physical and/or mental limitations that affect the ability to perform work-related tasks.

2009) (quoting Embrey v. Bowen, 849 F.2d 418, 422 (9th Cir. 1988)). A treating physician's opinion is given controlling weight when it is "well-supported by medically accepted clinical and laboratory diagnostic techniques and is not inconsistent with the other substantial evidence in [the claimant's] case record." 20 C.F.R. § 404.1527(d)(2). On the other hand, if a treating physician's opinion "is not well-supported" or "is inconsistent with other substantial evidence in the record," then it should not be given controlling weight. Orn v. Astrue, 495 F.3d 624, 631 (9th Cir. 2007).

If a treating physician's opinion is not contradicted by the opinion of another physician, then the ALJ may discount the treating physician's opinion only for "clear and convincing" reasons. See Carmickle, 533 F.3d at 1164 (quoting Lester, 81 F.3d at 830). If a treating physician's opinion is contradicted by another physician's opinion, then the ALJ may reject the treating physician's opinion if there are "specific and legitimate reasons that are supported by substantial evidence in the record." Id. (quoting Lester, 81 F.3d at 830).

Since the "treating provider opinions" Plaintiff refers to were contradicted by other examining and state agency physicians, as well as, other objective medical evidence of record, the specific and legitimate standard applies.

Historically, the courts have recognized the following as specific, legitimate reasons for disregarding a treating or examining physician's opinion: conflicting medical evidence; the absence of regular medical treatment during the alleged period of disability; the lack of medical support for doctors' reports based substantially on a claimant's subjective complaints of pain; and medical opinions that are brief, conclusory, and inadequately supported by medical evidence. See, e.g., Bayliss v. Barnhart, 427 F.3d 1211, 1216 (9th Cir. 2005); Flaten v. Secretary of Health and Human Servs., 44 F.3d 1453, 1463-64 (9th Cir. 1995); Fair v. Bowen, 885 F.2d 597, 604 (9th Cir. 1989).

In her consideration of the objective medical evidence, the ALJ first addressed the opinion of Physician's Assistant, Mr. Nordman – giving little weight to his assessment. (Tr. at 70.) Mr. Nordman completed a checkbox questionnaire, dated November 2011, in which he assessed numerous moderate limitations in functioning. (Tr. at 460-61.) The form he

filled out defined moderate as "claimant's impairments affect but do not preclude ability to function." (Tr. at 460.) Three months later, he filled out an identical form that indicated much more severe functional limitations. (Tr. at 462-63.) This form was co-signed by Dr. Gagliardi. (Tr. at 463.) Ten months later, he filled out a similar form that indicated Plaintiff's limitations were even more extreme. (Tr. at 469-70.) This form was co-signed by Dr. Graber. (Tr. at 470.)

The ALJ rejected the overall opinion of Mr. Nordman (as well as the opinions of Drs. Graber and Gagliardi) finding that the opinion was "vague and imprecise" and lacked any explanation or support for the assessed limitations. (Tr. at 70.) The ALJ also noted that the opinion indicated a serious worsening in Plaintiff's mental health symptoms over time, when the treatment records failed to reflect such a decompensation. These were valid reasons for affording the opinion of Mr. Nordman – and Drs. Graber and Gagliardi – little weight. "The ALJ need not accept the opinion of any physician, including a treating physician, if that opinion is brief, conclusory, and inadequately supported by clinical findings." Chaudhry v. Astrue, 688 F.3d 661, 671 (9th Cir. 2012); see Bray, 554 F.3d at 1228; Batson v. Comm'r Soc. Sec. Admin., 359 F.3d 1190, 1195 (9th Cir. 2004) ("[A]n ALJ may discredit treating physicians' opinions that are conclusory, brief, and unsupported by the record as a whole ... or by objective medical findings ... ."); Tonapetyan v. Halter, 242 F.3d 1144, 1149 (9th Cir. 2001) ("When confronted with conflicting medical opinions, an ALJ need not accept a treating physician's opinion that is conclusory and brief and unsupported by clinical findings.").

Next, the ALJ considered the opinion of Dr. Apodaca. (Tr. at 70-71.) In June 2012, Dr. Apodaca completed a checkbox form in which she opined Plaintiff had an "extreme" degree of physical impairment that would effectively preclude competitive employment. (Tr. at 466-68.) This form also indicated that it was intended to supplement a narrative report, but Dr. Apodaca provided no accompanying narrative and did not fill out the "Remarks" section. (Tr. at 468.) The ALJ found the opinion deserved "little weight" because it was not supported by Dr. Apodaca's own treatment notes and provided little explanation for the

conclusions on the checkbox form. (Tr. at 70-71.) Dr. Apodaca's treatment notes document largely unremarkable physical examinations, with no evidence of gait disturbance, poor coordination, or bad posture. (Tr. at 70, 518, 523, 526, 530, 533, 536, 540, 543-44.) Thus, the ALJ reasonably found that Dr. Apodaca's own treatment notes did not support the debilitating limitations she assessed on the checkbox form. See 20 C.F.R. § 404.1527(c)(3) ("The better an explanation a source provides for an opinion, the more weight we will give that opinion."); Molina v. Astrue, 674 F.3d 1104, 1111 (9th Cir. 2012) ("We have held that the ALJ may permissibly reject check-off reports that do not contain any explanation of the bases of their conclusions."); Batson, 359 F.3d at 1195.

As to Dr. Lee, who examined Plaintiff at the request of the state agency, the ALJ gave "little weight" to her conclusions. (Tr. at 71.) Dr. Lee examined Plaintiff in February 2012. (Tr. at 451-55.) Dr. Lee did not assess any specific functional limitations that were incompatible with full-time work (Tr. at 454), but she stated that Plaintiff's "lack of prior vocational success coupled with his current depression and bodily pain renders him a poor prospect at this point to succeed in any work environment" (Tr. at 453). The ALJ discounted Dr. Lee's opinion because her own examination results did not support her opinion and because it was vague. (Tr. at 71.) Furthermore, Dr. Lee failed to assess any functional limitations that would preclude employment. Rather, she made conclusory statements regarding Plaintiff's physical impairments and his "lack of prior vocational success." (Tr. at 453.) See McLeod v. Astrue, 640 F.3d 881, 884-85 (9th Cir. 2011) (recognizing doctors lack the requisite vocational expertise to opine about employability); Bray, 554 F.3d at 1228; Batson, 359 F.3d at 1195; Tonapetyan, 242 F.3d at 1149. "Internal inconsistencies" in a medical opinion are a relevant factor for an ALJ to consider, and "[d]etermining whether inconsistencies are material (or are in fact inconsistencies at all) ... falls within [the ALJ's] responsibility." Morgan v. Comm'r of Soc. Sec. Admin., 169 F.3d 595, 603 (9th Cir. 1999). As the ALJ noted, the mini-mental status examination was the only testing Dr. Lee administered, and it indicated only a mild degree of cognitive impairment, by Dr. Lee's own account. (Tr. at 71, 454.)

In sum, the Court finds that the ALJ properly weighed the medical source opinion evidence, and gave specific and legitimate reasons, based on substantial evidence in the record, for discounting the "treating provider opinions." Therefore, the Court finds no error.

B. Plaintiff's Subjective Complaints

Plaintiff argues that the ALJ erred in rejecting his subjective complaints in the absence of clear and convincing reasons for doing so.

To determine whether a claimant's testimony regarding subjective pain or symptoms is credible, the ALJ must engage in a two-step analysis. "First, the ALJ must determine whether the claimant has presented objective medical evidence of an underlying impairment 'which could reasonably be expected to produce the pain or other symptoms alleged.' The claimant, however, 'need not show that her impairment could reasonably be expected to cause the severity of the symptom she has alleged; she need only show that it could reasonably have caused some degree of the symptom.'" Lingenfelter v. Astrue, 504 F.3d 1028, 1036-37 (9th Cir. 2007) (citations omitted). "Second, if the claimant meets this first test, and there is no evidence of malingering, 'the ALJ can reject the claimant's testimony about the severity of her symptoms only by offering specific, clear and convincing reasons for doing so.'" Id. at 1037 (citations omitted). General assertions that the claimant's testimony is not credible are insufficient. See Parra v. Astrue, 481 F.3d 742, 750 (9th Cir. 2007). The ALJ must identify "what testimony is not credible and what evidence undermines the claimant's complaints." Id. (quoting Lester, 81 F.3d at 834).

In weighing a claimant's credibility, the ALJ may consider many factors, including, "(1) ordinary techniques of credibility evaluation, such as the claimant's reputation for lying, prior inconsistent statements concerning the symptoms, and other testimony by the claimant that appears less than candid; (2) unexplained or inadequately explained failure to seek treatment or to follow a prescribed course of treatment; and (3) the claimant's daily activities." Smolen v. Chater, 80 F.3d 1273, 1284 (9th Cir. 1996); see Orn, 495 F.3d at 637-

39.[2] The ALJ also considers "the claimant's work record and observations of treating and examining physicians and other third parties regarding, among other matters, the nature, onset, duration, and frequency of the claimant's symptom; precipitating and aggravating factors; [and] functional restrictions caused by the symptoms ... ." Smolen, 80 F.3d at 1284 (citation omitted).

As detailed by the ALJ in her decision, Plaintiff alleges persistent back and feet pain resulting in difficulty sitting and standing. (Tr. at 67.) He testified that he is unable to sit or stand for too long due to back pain and "constant" spasms. His back and left shoulder pain limits his ability to reach and lift, and he is unable to carry heavy things. He testified that he is able to lift no more than eight pounds and can sit for no more than 30-45 minutes. He also indicated that he is able to stand for no more than 15 minutes at a time, and can only walk for 4-5 minutes. Plaintiff also alleged ongoing depression with psychosis, and described his symptoms as "sadness" that sometimes prevents him from getting out of bed. He also noted hallucinations and racing thoughts. (Tr. at 67.)

Having reviewed the record along with the ALJ's credibility analysis, the Court finds that the ALJ made sufficient credibility findings and identified multiple clear and convincing reasons supported by the record for discounting Plaintiff's statements regarding his pain and limitations. Although the ALJ recognized that Plaintiff's medically determinable impairments could reasonably be expected to cause the alleged symptoms, she also found that Plaintiff's statements concerning the intensity, persistence, and limiting effects of the symptoms were not fully credible. (Tr. at 67-70.)

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[2] With respect to the claimant's daily activities, the ALJ may reject a claimant's symptom testimony if the claimant is able to spend a substantial part of her day performing household chores or other activities that are transferable to a work setting. See Fair, 885 F.2d at 603. The Social Security Act, however, does not require that claimants be utterly incapacitated to be eligible for benefits, and many home activities may not be easily transferable to a work environment where it might be impossible to rest periodically or take medication. See id.

The ALJ first addressed Plaintiff's activities of daily living finding that said activities were not limited to the extent that would be expected if his allegations were fully credible. (Tr. at 67.) "[I]f the claimant engages in numerous daily activities involving skills that could be transferred to the workplace, an adjudicator may discredit the claimant's allegations upon making specific findings relating to the claimant's daily activities." Bunnell v. Sullivan, 947 F.2d 341, 346 (9th Cir. 1991) (citing Fair, 885 F.2d at 603); see Berry v. Astrue, 622 F.3d 1228, 1234-35 (9th Cir. 2010) (claimant's activities suggested a greater functional capacity than alleged). In May 2011, Plaintiff complained of increased back pain because he had been doing yard work, including mowing the lawn and using a weed eater. (Tr. at 67, 254, 272.) About a year and a half later, Dr. Graber noted that Plaintiff was performing chores around the place he lived, even though he had recently experienced an exacerbation of mental health symptoms after he stopped taking his medication. (Tr. at 67, 472.) In contrast, Plaintiff testified that he was so impaired he could not stand for more than 15 minutes or walk for more than 4 or 5 minutes at a time. (Tr. at 18, 67.) The ALJ reasonably found Plaintiff to be less-than-fully credible in light of evidence he was performing household chores, including yard work, during the alleged period of disability. While not alone conclusive on the issue of disability, an ALJ can reasonably consider a claimant's daily activities in evaluating the credibility of his subjective complaints. See, e.g., Stubbs-Danielson v. Astrue, 539 F.3d 1169, 1175 (9th Cir. 2008) (upholding ALJ's credibility determination based in part of the claimant's abilities to cook, clean, do laundry, and help her husband with the finances); Burch v. Barnhart, 400 F.3d 676, 680-81 (9th Cir. 2005) (upholding ALJ's credibility determination based in part on the claimant's abilities to cook, clean, shop, and handle finances).

Next, the ALJ discussed Plaintiff's treatment history finding that his treatment has been largely routine and conservative, and his impairments have responded well to treatment. (Tr. at 67-68.) A conservative course of treatment is sufficient to discount a claimant's testimony regarding severity of an impairment. See Johnson v. Shalala, 60 F.3d 1428, 1434 (9th Cir. 1995) (evidence of "conservative treatment" is sufficient to discount a claimant's

testimony regarding severity of an impairment). Evidence that a claimant responded well to such treatment also undermines allegations of disabling limitations. See Tommasetti v. Astrue, 533 F.3d 1035, 1040 (9th Cir. 2008). As the ALJ noted, Plaintiff's back and shoulder pain responded well to physical therapy treatment in 2011. (Tr. at 67-68, 253-66.) In August 2011, he told Lucia McPhee, M.D., that he was not performing any of the home exercises for his back and shoulder. (Tr. at 379.) His physical therapy records are inconsistent with his testimony that his back and shoulder were still significant, ongoing problems that prevented him from working. (Tr. at 16-17.) Moreover, Plaintiff reported he did not need to use his narcotic pain medication every day. (Tr. at 68, 286, 379.)

Plaintiff's mental health also showed significant improvement after he initiated treatment in April 2011. (Tr. at 69.) By June 2011, Mr. Nordman was noting that Plaintiff was still "mildly anxious and depressed" and "[s]till depressed some," but "much improved." (Tr. at 69, 286-87.) He had not experienced any hallucinations since he started taking medication. (Tr. at 69, 287.) In January 2012, he reported he was happy with his medication regiment and thinking about going back to work, even though he still had significant depression and was unsure of his ability to handle the customer service aspects of his new job. (Tr. at 69, 509-11.) In May 2012, he stopped taking all of his medications because he did not believe they were helping. (Tr. at 69, 499.) As a result, he experienced hallucinations and some increased paranoia. (Tr. at 69, 500.) However, he stabilized immediately upon restarting his medication. (Tr. at 69, 501.) By October 2012, he was "[d]oing better back on the meds," which were "working well," even though he had recently had trouble with his pharmacy. (Tr. at 69, 481-85.) Dr. Apodaca described him as being friendly and cooperative, displaying a normal mood and affect, being fully oriented, and presenting as appropriately dressed, kept, and hygienic during her numerous treatment sessions. (Tr. at 69, 273, 276, 280, 376, 518, 523, 526, 530, 533, 536, 540, 543.)

The ALJ also noted that Plaintiff had a sporadic work history and left his last job for reasons unrelated to his impairments. (Tr. at 68-69.) The fact that a claimant stopped work for reasons other than his impairments is a valid reason credibility consideration. See Bruton

v. Massanari, 268 F.3d 824, 828 (9th Cir. 2001). A "poor work history" is also a valid credibility factor for an ALJ to consider. See Thomas v. Barnhart, 278 F.3d 948, 959 (9th Cir. 2002) (upholding ALJ's finding that claimant's alleged symptoms related to a slip-and-fall injury were not entirely credible because she had an "extremely poor work history" and "has shown little propensity to work in her lifetime"). When Plaintiff initiated mental health treatment in April 2011, he told the intake therapist he last worked for about a year and a half as a shipping clerk, which he found "was an easy job" for him, until his employer requested he take a second urinalysis test, at which point he quit. (Tr. at 68, 316.) The fact Plaintiff left his last job over his employer's drug-use policy, and not because his impairments interfered with his ability to work, was a valid credibility issue. Furthermore, Plaintiff has a very sporadic work history, and a history of heavy drug use from a relatively early age. (Tr. at 68-69, 158-59, 320.)

Additionally, the ALJ found minimal objective evidence supporting Plaintiff's complaints of physical impairment. (Tr. at 68.) An ALJ may consider the objective medical evidence when evaluating a claimant's credibility, as long as it is not the only factor supporting the credibility assessment. See Bray, 554 F.3d at 1227. An MRI taken in July 2011 revealed only mild spinal abnormalities. (Tr. at 68, 373-74.) X-rays taken the following month revealed evidence of spina bifida occulta, which is a minimal abnormality that typically produces no symptoms. (Tr. at 68, 243.)

Lastly, the ALJ also found that Plaintiff's description of his depressive symptoms has been vague and general. (Tr. at 69.) An ALJ may use ordinary techniques of credibility evaluation, which includes consideration of the vagueness or specificity of the claimant's allegations. See Tommasetti, 533 F.3d at 1040.

In summary, the Court finds that the ALJ provided a sufficient basis to find Plaintiff's allegations not entirely credible. While perhaps the individual factors, viewed in isolation, are not sufficient to uphold the ALJ's decision to discredit Plaintiff's allegations, each factor is relevant to the ALJ's overall analysis, and it was the cumulative effect of all the factors that led to the ALJ's decision. The Court concludes that the ALJ has supported his decision

to discredit Plaintiff's allegations with specific, clear and convincing reasons and, therefore, the Court finds no error.

C. The ALJ's Residual Functional Capacity Assessment

Plaintiff argues that the ALJ erred by failing to properly assess his residual functional capacity. Specifically, Plaintiff states, "[t]he opinions of all treating and examining psychological providers - Robert Nordman, PA, Dr. Gagliardi, MD, Dr. Graber, MD, and A Lee, PhD - all opine limitations that preclude substantial gainful activity. TR 453, 461-465, TR 28-29 (vocational testimony). The ALJ erred in not including these severe limitation in the residual functional capacity."

The Court construes Plaintiff's argument as an extension of the argument alleging that the ALJ erred in failing to properly weigh medical source opinion evidence – which this Court has already addressed. In any event, the Court finds that the ALJ's residual functional capacity assessment is supported by substantial evidence as she properly addressed both the objective medical evidence of record and Plaintiff's credibility in finding that Plaintiff retained "the residual functional capacity to perform light work as defined in 20 CFR 416.967(b)." The Court finds no error.

V. CONCLUSION

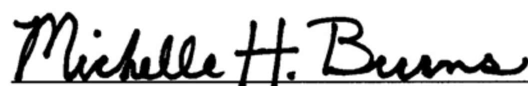
Substantial evidence supports the ALJ's decision to deny Plaintiff's claim for supplemental security income in this case. Consequently, the ALJ's decision is affirmed.

Based upon the foregoing discussion,

IT IS ORDERED that the decision of the ALJ and the Commissioner of Social Security be 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 24th day of September, 2015.



Michelle H. Burns
United States Magistrate Judge