

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

ALICIA CORDOVA,)	No. CV 13-04156-VBK
)	
Plaintiff,)	MEMORANDUM OPINION
)	AND ORDER
v.)	
)	(Social Security Case)
CAROLYN W. COLVIN, Acting)	
Commissioner of Social)	
Security,)	
)	
Defendant.)	
_____)	

This matter is before the Court for review of the decision by the Commissioner of Social Security denying Plaintiff's application for disability benefits. Pursuant to 28 U.S.C. §636(c), the parties have consented that the case may be handled by the Magistrate Judge. The action arises under 42 U.S.C. §405(g), which authorizes the Court to enter judgment upon the pleadings and transcript of the record before the Commissioner. The parties have filed the Joint Stipulation ("JS"), and the Commissioner has filed the certified Administrative Record ("AR").

Plaintiff raises the following issues:

1. Whether the Administrative Law Judge ("ALJ") properly

1 determined that Plaintiff could perform her past relevant
2 work.

3 (JS at 4.)
4

5 This Memorandum Opinion will constitute the Court's findings of
6 fact and conclusions of law. After reviewing the matter, the Court
7 concludes that the decision of the Commissioner must be affirmed.
8

9 I

10 **THE ALJ PROPERLY DETERMINED THAT PLAINTIFF**
11 **CAN PERFORM HER PAST RELEVANT WORK**

12 At the administrative hearing (AR 43-63), the ALJ utilized the
13 assistance of a vocational expert ("VE"). The VE identified one of
14 Plaintiff's jobs (Past Relevant Work, or "PRW") as "medical
15 transcriber, [DOT] 203.582-058, sedentary, skilled, SVP of 5." (AR
16 51.) In his Decision, the ALJ determined at Step Four of the
17 sequential evaluation procedure that Plaintiff was capable of
18 performing the PRW. (AR 29.) Plaintiff asserts that this was an
19 erroneous finding because the ALJ relied upon the VE's testimony which
20 failed to substantiate an asserted discrepancy between Plaintiff's
21 residual functional capacity ("RFC") and the demands of the PRW.
22 Specifically, Plaintiff asserts that while Plaintiff's RFC provides,
23 in part, that she can only "occasionally" push/pull with her lower
24 extremities, the Dictionary of Occupational Titles ("DOT") definition
25 of her PRW requires more. For the following reasons, the Court
26 disagrees.

27 The law is clear that if there is such a discrepancy, it must be
28 fully explained in the ALJ's Decision. See Massachi v. Astrue, 486

1 F.3d 1149, 1152-1153 (9th Cir. 2007).

2 Here, the VE found that Plaintiff's PRW does not require more
3 than occasional ability to use her lower extremities to push/pull. (AR
4 50-53, 59-61.) Plaintiff asserts that because her PRW requires that
5 she operate a transcribing machine, she interprets that "the DOT
6 describes constant use of the fingers to type." (JS at 7, citing
7 Exhibit ["Ex."] 1 at p. 3.) The crux of Plaintiff's argument is that,

8 "This constant pushing of a foot control to pause the
9 machine while typing is inconsistent with the ALJ's
10 limitation of [Plaintiff] from more than occasional pushing
11 with the lower extremities."

12 (JS at 8.)

13
14 Plaintiff's argument fails for several reasons. First, there
15 simply is no deviation between the determined RFC, which Plaintiff
16 does not dispute, and the DOT's description of the exertional demands
17 of her PRW. Specifically, as noted, Plaintiff's PRW requires "exerting
18 up to 10 pounds of force occasionally." Further, the DOT description
19 itself defines "occasionally" as "activity or condition exists up to
20 1/3 of the time." (Ex. A at 1.) The Commissioner's own regulations
21 define "occasionally" as "occurring very little up to one-third of the
22 time." (See SSR 83-10.)

23 Further, as the Commissioner correctly notes, Plaintiff's PRW
24 requires a sedentary exertional level. The Commissioner's own
25 regulations classify a job which requires pushing or pulling of leg
26 controls as light work. See 20 C.F.R. § 404.1576(b). (Light work
27 encompasses jobs that require "very little" lifting but "some pushing
28 or pulling of arm or leg controls.") Thus, if in fact Plaintiff's PRW

