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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

PAMELA J. ROBBINS,	)	No. CV 13-7307-AS
	)	
Plaintiff,	)	<b>MEMORANDUM AND OPINION</b>
v.	)	
	)	
CAROLYN W. COLVIN,	)	
Acting Commissioner of the	)	
Social Security Administration,	)	
	)	
Defendant.	)	
	)	

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**PROCEEDINGS**

Plaintiff Pamela J. Robbins ("Plaintiff"), a former proof machine operator at a bank, asserts disability since February 1, 2007, based on alleged physical and mental impairments. (A.R. 129-135.) The Administrative Law Judge ("ALJ") examined the record and heard testimony from Plaintiff and a vocational expert ("VE") on March 28, 2012. (A.R. 26-30.) The ALJ denied Plaintiff benefits in a written decision. (A.R. 11-22.) The Appeals Council denied review of the ALJ's decision. (A.R. 1-3.)

1 On October 9, 2013, Plaintiff filed a Complaint, pursuant to 42  
2 U.S.C. §§ 405(g) and 1383(c), alleging that the Social Security  
3 Administration erred in denying her disability benefits. (Docket  
4 Entry No. 3.) On February 7, 2014, Defendant filed an Answer to the  
5 Complaint, and the Certified Administrative Record ("A.R."). (Docket  
6 Entry Nos. 13, 14.) The parties have consented to proceed before a  
7 United States Magistrate Judge. (Docket Entry Nos. 9, 10.) On April  
8 30, 2014, the parties filed a Joint Stipulation ("Joint Stip.")  
9 setting forth their respective positions on Plaintiff's claim.  
10 (Docket Entry No. 15.)

11  
12 **THE FIVE-STEP SEQUENTIAL EVALUATION PROCESS**

13  
14 "Social Security disability benefits claimants have the burden  
15 of proving disability." Bellamy v. Sec'y Health & Human Serv., 755  
16 F.3d 1380, 1380 (9th Cir. 1985). A claimant is disabled if she has  
17 the "inability to engage in any substantial gainful activity by  
18 reason of any medically determinable physical or mental  
19 impairment...which has lasted or can be expected to last for a  
20 continuous period of not less than 12 months." 42 U.S.C.  
21 § 423(d)(1)(A). In order to determine whether a claimant is  
22 disabled, ALJs follow a five-step process set forth in 20 C.F.R.  
23 § 404.1520(a)(4). "The claimant bears the burden of proving steps  
24 one through four." Parra v. Astrue, 481 F.3d 742, 746 (9th Cir.  
25 2007).

26  
27 At step one, the ALJ must determine whether or not the claimant  
28 is actually engaged in any "substantial gainful activity," as defined

1 by 20 C.F.R. § 404.1572. If claimant is not so engaged, the  
2 evaluation continues to step two. See 20 C.F.R. § 404.1520(a)(4)(i).

3  
4 At step two, the ALJ determines whether the claimed physical or  
5 mental impairments are severe. 20 C.F.R. § 404.1520(a)(4)(ii). When  
6 determining severity, "the ALJ must consider the combined effect of  
7 all of the claimant's impairments on her ability to function, without  
8 regard to whether each alone was sufficiently severe." Smolen v.  
9 Chater, 80 F.3d 1273, 1290 (9th Cir. 1996) (citing 42 U.S.C.  
10 § 423(d)(2)(B)). Impairments are considered severe unless the  
11 evidence "establishes a slight abnormality that has 'no more than a  
12 minimal effect on an individual's ability to work.'" Id. at 1290  
13 (quoting Yuckert v. Bowen, 841 F.2d 303, 306 (9th Cir. 1988)). "[I]f  
14 the ALJ concludes that the claimant does have a medically severe  
15 impairment, the ALJ proceeds to the next step in the sequence." Webb  
16 v. Barnhart, 433 F.3d 683, 686 (9th Cir. 2005); see 20 C.F.R.  
17 § 404.1520(a)(4)(ii).

18  
19 At step three, the ALJ considers whether the claimant's severe  
20 impairments are disabling. 20 C.F.R. § 404.1520(a)(4)(iii). The  
21 claimant is considered disabled if her purported conditions meet or  
22 are medically equivalent to a listing found in 20 C.F.R. Part 404,  
23 Subpart P, Appendix 1. Burch v. Barnhart, 400 F.3d 676, 679 (9th  
24 Cir. 2005). "[An] impairment is medically equivalent to a listed  
25 impairment in appendix 1 if it is at least equal in severity and  
26 duration to the criteria of any listed impairment." 20 C.F.R.  
27 404.1526. "Medical equivalence must be based on medical findings[]"  
28 rather than "[a] generalized assertion" or opinion testimony

1 regarding "functional problems." Tackett v. Apfel, 180 F.3d 1094,  
2 1100 (9th Cir. 1999) (citing 20 C.F.R. § 404.1526).

3  
4 If the ALJ concludes that claimant is not disabled at step  
5 three, the ALJ moves to step four and considers whether the claimant  
6 can return to her past relevant work. Burch, 400 F.3d at 679; See 20  
7 C.F.R. § 404.1520(a)(4)(iv). In order to do so, the ALJ determines  
8 claimant's Residual Functional Capacity ("RFC"). 20 C.F.R.  
9 § 404.1520(a)(4)(iv). A claimant's RFC is "what [claimant] can still  
10 do despite [claimant's] limitations," and is "based on all the  
11 relevant medical and other evidence in [the] case record." 20 C.F.R.  
12 416.945(a)(1). If the claimant's RFC dictates that she can return to  
13 her past relevant work, she is not considered disabled. Burch, 400  
14 F.3d at 679.

15  
16 If the claimant proves in step four that she cannot return to  
17 her past relevant work, the ALJ proceeds to step five. 20 C.F.R.  
18 § 404.1520(a)(4)(v). At step five "the burden of proof shifts to the  
19 Secretary to show that the claimant can do other kinds of work."  
20 Embrey v. Bowden, 849 F.2d 418, 422 (9th Cir. 1988). At this point,  
21 ALJs "can call upon a vocational expert to testify as to: (1) what  
22 jobs the claimant, given his or her [RFC], would be able to do; and  
23 (2) the availability of such jobs in the national economy." Tackett,  
24 180 F.3d at 1101. If claimant does not have the RFC to work in any  
25 available jobs, she is considered disabled. 20 C.F.R.  
26 § 404.1520(a)(4)(v).



1       stooping, kneeling, crouching and crawling and, mentally,  
2       she is limited to unskilled work with no contact with the  
3       general public and can only perform work in solitary and  
      not in coordination with others.

4       (A.R. 15.)     The ALJ based the finding of Plaintiff's RFC on the  
5       opinions of: Dr. Hoang, an orthopedic consultant; Dr. El-Khoury, a  
6       pain management doctor; Dr. Bagner, III, a psychiatric consultant;  
7       and Dr. Xie, a neurologist.   (A.R. 15-19.)

8  
9       At step four, the ALJ concluded, based on the testimony of the  
10      vocational expert ("VE"), that Plaintiff could no longer work as a  
11      proof machine operator and had no transferable skills from that job.  
12      (A.R. 20.)

13  
14      At step five, the ALJ summarized the VE's testimony, stating  
15      that the VE had found that Plaintiff could perform the following jobs  
16      identified in the Dictionary of Occupational Titles ("DOT"): (1)  
17      inspector/hand packager (DOT No. 559.687-074); (2) marker II (DOT No.  
18      920.687-126); or (3) assembler of small products II (DOT No. 379.687-  
19      030).   (A.R. 21.)   The ALJ then relied on the VE's testimony, along  
20      with Plaintiff's age, education, work experience, and RFC, to  
21      conclude that "the claimant is capable of making a successful  
22      adjustment to other work that exists in significant numbers in the  
23      national economy."   (See id.)   Accordingly, the ALJ found that  
24      Plaintiff was "not disabled."   (Id.)

25     / /  
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1 the limitation with regard to Plaintiff's social interactions as  
2 follows:

3  
4 I'm going to limit contact with people and make that--I'm,  
5 I'm just going to eliminate contact with the, the general  
6 public.

7 And the work should be solitary, not in coordination with  
8 other individuals, *although can certainly be around other*  
9 *individuals*. It's just the work doesn't, doesn't - should  
10 not require the Claimant to finish one part of work,  
11 someone else can start the next part, and have a  
12 requirement of communication between the two parties.

13 (A.R. 49 (emphasis added).) The VE then testified that a  
14 hypothetical person with Plaintiff's limitations could perform  
15 various unskilled, light exertional jobs, including that of an  
16 inspector/hand packager, marker II, and assembler of small products  
17 II. (A.R. 50-51.)

18 After considering Plaintiff's testimony at the hearing that she  
19 is very anxious and nervous, the ALJ gave Plaintiff "the benefit of  
20 doubt" and determined that her RFC should contain the following  
21 limitation: "no contact with the general public and can only perform  
22 work in solitary and not in coordination with others." (A.R. 15.)  
23 The ALJ then found, based on the VE's response to his hypothetical at  
24 the hearing, that there are jobs that exist in significant numbers in  
25 the national economy that the Plaintiff can perform. (A.R. 21.)

26 Plaintiff incorrectly characterizes her RFC, stating that the  
27 limitation requires her to work in "complete isolation" and "avoid  
28 all contact with coworkers." (Joint Stip. 4.) However, as the ALJ

1 explained in the hearing, the RFC limitation does not preclude  
2 Plaintiff from being around other people. Rather, it merely requires  
3 that the job not involve communication between Plaintiff and another  
4 party in order to finish their work.

5  
6 Plaintiff contends that an ALJ cannot rely on expert testimony  
7 that contradicts the DOT unless the record contains persuasive  
8 evidence to support the decision. (Joint Stip. 3 (citing Light v.  
9 Social Security Administration, 119 F.3d 789, 793 (9th Cir. 1997)).)  
10 However, Plaintiff fails to demonstrate that any actual or apparent  
11 conflict exists between the VE's testimony and the DOT. As Plaintiff  
12 notes herself, the DOT assumes that "every job requires a worker to  
13 function, to some degree, in relation to Data, People, and Things."  
14 See DOT, Appendix B, Explanation of Data, People, and Things (4th ed.  
15 Rev. 1991). DOT job descriptions are assigned a numeric code  
16 signifying the degree of interaction required for each of the three  
17 categories. (See id.) The DOT describes each of the three jobs  
18 identified by the VE as requiring a level eight ability to function  
19 in relation to people. (Id.) Level eight is the lowest rating  
20 possible for interacting with people, and merely requires taking  
21 instructions or helping other people. (Id.) This definition is  
22 consistent with the VE's testimony that a hypothetical person with  
23 Plaintiff's social limitations can perform those jobs.

24  
25 Moreover, the ALJ properly relied on the VE's testimony because  
26 the hypothetical presented to the VE considered all of the claimant's  
27 limitations that were supported by the record. See Thomas v.  
28 Barnhart, 278 F.3d 947, 956 (9th Cir. 2002) (considering VE testimony

