

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**

SHAYLA N. GIBSON,

Plaintiff,

v.

NANCY A. BERRYHILL, Acting
Commissioner of Social
Security,

Defendant.

CASE NO. CV 17-4692 SS

MEMORANDUM DECISION AND ORDER

I.

INTRODUCTION

Shayla N. Gibson ("Plaintiff") brings this action seeking to overturn the decision of the Acting Commissioner of Social Security (the "Commissioner" or "Agency") denying her application for Disability Insurance Benefits. The parties consented, pursuant to 28 U.S.C. § 636(c), to the jurisdiction of the undersigned United States Magistrate Judge. (Dkt. Nos. 11-13). For the reasons stated below, the Court AFFIRMS the Commissioner's decision.

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

II.

PROCEDURAL HISTORY

On November 26, 2013, Plaintiff filed an application for Disability Insurance Benefits ("DIB") pursuant to Title II of the Social Security Act alleging a disability onset date of January 1, 2011. (AR 130-31). The Commissioner denied Plaintiff's application. (AR 69-82). Plaintiff requested a hearing before an Administrative Law Judge ("ALJ"), which took place on May 13, 2015. (AR 89, 36-68). The ALJ issued an adverse decision on March 7, 2016, finding that Plaintiff was not disabled because she was capable of performing her past relevant work as a case worker, receptionist, and secretary, and because there are also jobs in the national economy that she can perform. (AR 10-20). On April 25, 2017, the Appeals Council denied Plaintiff's request for review. (AR 1-9). This action followed on June 26, 2017.

III.

FACTUAL BACKGROUND

Plaintiff was born on July 25, 1977. (AR 130). She was thirty-eight (38) years old when she appeared before the ALJ on February 3, 2017. (AR 40). Plaintiff is a college graduate. (AR 159). She is single and lives with her family. (AR 130, 165). Plaintiff last worked in 2010 as a case manager.¹ (AR 42). She alleges

¹ As discussed below, Plaintiff's date last worked is in dispute.

1 disability due to bilateral carpal tunnel syndrome and nerve damage
2 in her hands and neck. (AR 158).

3
4 **A. Plaintiff's Statements And Testimony**

5
6 In a February 2014 Function Report, Plaintiff asserted that
7 her impairments restrict her ability to grab and grasp items. (AR
8 165). Her hands cramp while writing, she drops things, and she
9 has pain in her finger tips, neck, and left arm. (AR 165). She
10 is able to care for her children and her pets. (AR 166). Plaintiff
11 is able to drive and shop for household items. (AR 168).
12 Nevertheless, she contends that her impairments limit her ability
13 to lift, stand, walk, sit, reach, finger, concentrate, and complete
14 tasks. (AR 170). She cannot lift more than five pounds. (AR
15 170). In October 2014, Plaintiff denied the use of any medications,
16 including over-the-counter medicines. (AR 212).

17
18 At her February 2016 hearing, Plaintiff expressed confusion
19 about when she stopped working, acknowledging that she may have
20 worked in 2011 and 2012, despite claiming disability beginning in
21 January 2011. (AR 38, 40-42). She testified being unable to work
22 due to carpal tunnel syndrome. (AR 46). Despite having surgery
23 on both wrists, Plaintiff asserted that she has numbness and
24 tingling in her hands and wrists that has spread to her elbows and
25 up to her neck. (AR 46, 51). She cannot sit or stand for long
26 before developing numbness and tingling. (AR 52). Physical
27 therapy and home exercises have not relieved her symptoms. (AR
28 47). Despite continuing pain in her neck, right side, and both

1 hands and elbows, Plaintiff denied seeking any treatment during
2 2015, stating that she "didn't know [she] could." (AR 49-50, 58).

3
4 Plaintiff testified that she is able to care for her children,
5 ages eight, nine, ten and twelve, including driving them to school,
6 but relies on them to help prepare their meals, wash their clothes,
7 and shop for food. (AR 53-55). She acknowledged being able to
8 personally handwrite the eight-page Function Report, stating that
9 it took her a while because her hand grew tired. (AR 55-56). She
10 is able to lift a case of water. (AR 56).

11
12 **B. Treatment History**

13
14 On July 1, 2011, Plaintiff injured her hands, wrists, and
15 shoulders while working as a case manager for Maximus Cal Works.
16 (AR 416-17). In November 2011, Plaintiff reported that physical
17 therapy sessions gave only minimal improvement, but she continued
18 to work. (AR 417-18). She was still experiencing pain to her
19 bilateral hands, wrists, and shoulders that improves with rest.
20 (AR 417). Plaintiff's doctor diagnosed bilateral wrist
21 tenosynovitis and bilateral shoulder strain, with a need to rule
22 out bilateral carpal tunnel syndrome. (AR 425).

23
24 On November 14, 2011, electrodiagnostic testing indicated a
25 right mild compression of the median nerve at the carpal tunnel.
26 (AR 500). In January 2012, nerve conduction studies indicated left
27 carpal tunnel syndrome and early right carpal tunnel syndrome, as
28 well as possible right C6 radiculopathy. (AR 636, 642). In July

1 and October 2013, Plaintiff underwent bilateral carpal tunnel
2 releases. (AR 745-46, 783, 786).

3
4 Plaintiff was evaluated on several occasions between November
5 2012 and December 2014 by Andre Chaves, M.D. a workers'
6 compensation Qualified Medical Examiner. (AR 790-807). In March
7 2014, he diagnosed status post bilateral carpal tunnel releases
8 and questionable bilateral cubital tunnel syndrome. (AR 792). On
9 examination, he found full, unimpeded range of motion in flexion
10 and extension of all digits, wrists and elbows without limitation.
11 (AR 791). Dr. Chaves opined that Plaintiff is able to perform
12 keyboard activities so long as they do not exceed thirty minutes
13 per hour. (AR 792). He precluded Plaintiff from repetitive wrist
14 motion, repetitive forceful gripping, and grasping with both hands.
15 (AR 792). In his December 2014 report, Dr. Chaves confirmed
16 bilateral carpal tunnel syndrome based on clinical testing. (AR
17 806).

18
19 On March 31, 2014, John Sedgh, M.D., performed an Internal
20 Medicine Consultation examination, at the request of the Agency.
21 (AR 621-26). He noted a positive "Tinel's sign" in both hands,
22 but his neurological examination was unremarkable, and Plaintiff
23 exhibited a normal range of motion at her wrists. (AR 624-25).
24 Dr. Sedgh opined that Plaintiff can lift or carry twenty pounds
25 occasionally and ten pounds frequently; stand and walk or sit for
26 six hours during an eight-hour workday; occasionally kneel, crouch,
27 and stoop; and occasionally use gross and fine manipulation with
28 either hand. (AR 625-26).

1 **C. State Agency Consultant**

2
3 On April 17, 2014, Brett Alberty, M.D., a state agency
4 consultant, reviewed all the available evidence in the medical
5 file. (AR 70-82). Dr. Alberty found that Plaintiff was limited
6 to occasionally lifting twenty pounds and frequently ten pounds;
7 standing and walking or sitting six hours in an eight-hour workday;
8 with no manipulative or kneeling limitations; and occasionally
9 stooping, crouching, and crawling. (AR 78-79).

10
11 **IV.**

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

13
14 To qualify for disability benefits, a claimant must
15 demonstrate a medically determinable physical or mental impairment
16 that prevents the claimant from engaging in substantial gainful
17 activity and that is expected to result in death or to last for a
18 continuous period of at least twelve months. Reddick v. Chater,
19 157 F.3d 715, 721 (9th Cir. 1998) (citing 42 U.S.C. § 423(d)(1)(A)).
20 The impairment must render the claimant incapable of performing
21 work previously performed or any other substantial gainful
22 employment that exists in the national economy. Tackett v. Apfel,
23 180 F.3d 1094, 1098 (9th Cir. 1999) (citing 42 U.S.C.
24 § 423(d)(2)(A)).

25
26 To decide if a claimant is entitled to benefits, an ALJ
27 conducts a five-step inquiry. 20 C.F.R. §§ 404.1520, 416.920. The
28 steps are:

- 1 (1) Is the claimant presently engaged in substantial gainful
2 activity? If so, the claimant is found not disabled. If
3 not, proceed to step two.
- 4 (2) Is the claimant's impairment severe? If not, the
5 claimant is found not disabled. If so, proceed to step
6 three.
- 7 (3) Does the claimant's impairment meet or equal one of the
8 specific impairments described in 20 C.F.R. Part 404,
9 Subpart P, Appendix 1? If so, the claimant is found
10 disabled. If not, proceed to step four.
- 11 (4) Is the claimant capable of performing his past work? If
12 so, the claimant is found not disabled. If not, proceed
13 to step five.
- 14 (5) Is the claimant able to do any other work? If not, the
15 claimant is found disabled. If so, the claimant is found
16 not disabled.

17
18 Tackett, 180 F.3d at 1098-99; see also Bustamante v. Massanari,
19 262 F.3d 949, 953-54 (9th Cir. 2001); 20 C.F.R. §§ 404.1520(b)-
20 (g)(1), 416.920(b)-(g)(1).

21
22 The claimant has the burden of proof at steps one through four
23 and the Commissioner has the burden of proof at step five.
24 Bustamante, 262 F.3d at 953-54. Additionally, the ALJ has an
25 affirmative duty to assist the claimant in developing the record
26 at every step of the inquiry. Id. at 954. If, at step four, the
27 claimant meets his or her burden of establishing an inability to
28 perform past work, the Commissioner must show that the claimant

1 can perform some other work that exists in "significant numbers"
2 in the national economy, taking into account the claimant's
3 residual functional capacity ("RFC"), age, education, and work
4 experience. Tackett, 180 F.3d at 1098, 1100; Reddick, 157 F.3d at
5 721; 20 C.F.R. §§ 404.1520(g)(1), 416.920(g)(1). The Commissioner
6 may do so by the testimony of a VE or by reference to the Medical-
7 Vocational Guidelines appearing in 20 C.F.R. Part 404, Subpart P,
8 Appendix 2 (commonly known as "the grids"). Osenbrock v. Apfel,
9 240 F.3d 1157, 1162 (9th Cir. 2001). When a claimant has both
10 exertional (strength-related) and non-exertional limitations, the
11 Grids are inapplicable and the ALJ must take the testimony of a
12 vocational expert ("VE"). Moore v. Apfel, 216 F.3d 864, 869 (9th
13 Cir. 2000) (citing Burkhart v. Bowen, 856 F.2d 1335, 1340 (9th Cir.
14 1988)).

15
16 **V.**

17 **THE ALJ'S DECISION**

18
19 The ALJ employed the five-step sequential evaluation process
20 and concluded that Plaintiff was not disabled within the meaning
21 of the Social Security Act. (AR 20). At step one, the ALJ declined
22 to make a finding whether Plaintiff engaged in substantial gainful
23 activity since January 1, 2011, the alleged onset date.² (AR 12).
24 At step two, the ALJ found that Plaintiff's history of bilateral
25

26 ² The record contains disputed evidence whether Plaintiff worked
27 in 2011 or 2012. (AR 12). However, given the denial at both steps
28 four and five, the ALJ "decline[d] to render a finding of
substantial gainful activity at Step 1." (AR 12).

1 carpal tunnel syndrome post bilateral carpal tunnel release in 2013
2 and bilateral cubital tunnel syndrome are severe impairments. (AR
3 12-14). At step three, the ALJ determined that Plaintiff does not
4 have an impairment or combination of impairments that meet or
5 medically equal the severity of any of the listings enumerated in
6 the regulations. (AR 14).

7
8 The ALJ then assessed Plaintiff's RFC and concluded that she
9 can perform light work,³ with the following nonexertional
10 limitations: "[Plaintiff] can perform frequent handling, grasping,
11 gripping and fingering with the bilateral upper extremities; she
12 is unable to engage in keyboard use for more than 30 minutes in an
13 hour; and she is limited to occasional overhead reaching with the
14 bilateral upper extremities." (AR 14). At step four, the ALJ
15 found that Plaintiff is capable of performing past relevant work
16 as a case worker, receptionist, and secretary.⁴ (AR 18-19).

17 ³ "Light work involves lifting no more than 20 pounds at a time
18 with frequent lifting or carrying of objects weighing up to 10
19 pounds. Even though the weight lifted may be very little, a job
20 is in this category when it requires a good deal of walking or
21 standing, or when it involves sitting most of the time with some
22 pushing and pulling of arm or leg controls. To be considered
23 capable of performing a full or wide range of light work, you must
24 have the ability to do substantially all of these activities. If
25 someone can do light work, we determine that he or she can also do
26 sedentary work, unless there are additional limiting factors such
27 as loss of fine dexterity or inability to sit for long periods of
28 time." 20 C.F.R. § 404.1567(b).

⁴ The VE testified that Plaintiff was able to perform her past
relevant work both as generally performed and as actually performed
by Plaintiff. (AR 61). The ALJ, however, found that as a case
worker, Plaintiff actually performed manipulative activities seven
hours in an average workday, which exceeds the RFC. (AR 19).
Therefore, the ALJ determined that Plaintiff is capable of
performing her past relevant work as a case worker, receptionist,

1 Alternatively, based on Plaintiff's RFC, age, education, work
2 experience and the VE's testimony, the ALJ determined at step five
3 that there are jobs that exist in significant numbers in the
4 national economy that Plaintiff can perform, including sorter,
5 inspector, and electronics worker. (AR 19-20). Accordingly, the
6 ALJ found that Plaintiff was not under a disability, as defined by
7 the Social Security Act, from January 1, 2011, through the date of
8 the decision. (AR 20).

9
10 **VI.**

11 **STANDARD OF REVIEW**

12
13 Under 42 U.S.C. § 405(g), a district court may review the
14 Commissioner's decision to deny benefits. The court may set aside
15 the Commissioner's decision when the ALJ's findings are based on
16 legal error or are not supported by substantial evidence in the
17 record as a whole. Garrison v. Colvin, 759 F.3d 995 (9th Cir.
18 2014) (citing Stout v. Comm'r, Soc. Sec. Admin., 454 F.3d 1050,
19 1052 (9th Cir. 2006)); Auckland v. Massanari, 257 F.3d 1033, 1035
20 (9th Cir. 2001) (citing Tackett, 180 F.3d at 1097); Smolen v.
21 Chater, 80 F.3d 1273, 1279 (9th Cir. 1996) (citing Fair v. Bowen,
22 885 F.2d 597, 601 (9th Cir. 1989)).

23
24 "Substantial evidence is more than a scintilla, but less than
25 a preponderance." Reddick, 157 F.3d at 720 (citing Jamerson v.

26
27 _____
28 and secretary as generally performed, and the secretary and
receptionist work as actually performed. (AR 19).

1 Chater, 112 F.3d 1064, 1066 (9th Cir. 1997)). It is "relevant
2 evidence which a reasonable person might accept as adequate to
3 support a conclusion." Id. (citing Jamerson, 112 F.3d at 1066;
4 Smolen, 80 F.3d at 1279). To determine whether substantial
5 evidence supports a finding, the court must "'consider the record
6 as a whole, weighing both evidence that supports and evidence that
7 detracts from the [Commissioner's] conclusion.'" Auckland, 257
8 F.3d at 1035 (citing Penny v. Sullivan, 2 F.3d 953, 956 (9th Cir.
9 1993)). If the evidence can reasonably support either affirming
10 or reversing that conclusion, the court may not substitute its
11 judgment for that of the Commissioner. Reddick, 157 F.3d at 720-
12 21 (citing Flaten v. Sec'y, 44 F.3d 1453, 1457 (9th Cir. 1995)).

14 VII.

15 DISCUSSION

16
17 Plaintiff asserted that she is unable to work due to
18 debilitating pain, numbness, and tingling in her bilateral hands
19 and wrists, which sometimes radiates from her elbows to her neck.
20 (AR 46, 51, 52, 165, 170). Plaintiff testified that her symptoms
21 cause difficulty gripping, reaching, and prolonged writing. (AR
22 165, 170). She limits her daily activities, relying heavily on
23 her four minor children for help with household chores. (AR 53-
24 55).

25
26 When assessing a claimant's credibility regarding subjective
27 pain or intensity of symptoms, the ALJ must engage in a two-step
28 analysis. Trevizo v. Berryhill, 874 F.3d 664, 678 (9th Cir. 2017).

1 First, the ALJ must determine if there is medical evidence of an
2 impairment that could reasonably produce the symptoms alleged.
3 Garrison, 759 F.3d at 1014. "In this analysis, the claimant is
4 not required to show that her impairment could reasonably be
5 expected to cause the severity of the symptom she has alleged; she
6 need only show that it could reasonably have caused some degree of
7 the symptom." Id. (emphasis in original) (citation omitted). "Nor
8 must a claimant produce objective medical evidence of the pain or
9 fatigue itself, or the severity thereof." Id. (citation omitted).

10
11 If the claimant satisfies this first step, and there is no
12 evidence of malingering, the ALJ must provide specific, clear and
13 convincing reasons for rejecting the claimant's testimony about
14 the symptom severity. Trevizo, 874 F.3d at 678 (citation omitted);
15 see also Smolen, 80 F.3d at 1284 ("[T]he ALJ may reject the
16 claimant's testimony regarding the severity of her symptoms only
17 if he makes specific findings stating clear and convincing reasons
18 for doing so."); Robbins v. Soc. Sec. Admin., 466 F.3d 880, 883
19 (9th Cir. 2006) ("[U]nless an ALJ makes a finding of malingering
20 based on affirmative evidence thereof, he or she may only find an
21 applicant not credible by making specific findings as to
22 credibility and stating clear and convincing reasons for each.").
23 "This is not an easy requirement to meet: The clear and convincing
24 standard is the most demanding required in Social Security cases."
25 Garrison, 759 F.3d at 1015 (citation omitted).

26
27 In discrediting the claimant's subjective symptom testimony,
28 the ALJ may consider the following:

1 (1) ordinary techniques of credibility evaluation, such
2 as the claimant's reputation for lying, prior
3 inconsistent statements concerning the symptoms, and
4 other testimony by the claimant that appears less than
5 candid; (2) unexplained or inadequately explained
6 failure to seek treatment or to follow a prescribed
7 course of treatment; and (3) the claimant's daily
8 activities.

9
10 Ghanim v. Colvin, 763 F.3d 1154, 1163 (9th Cir. 2014) (citation
11 omitted). Inconsistencies between a claimant's testimony and
12 conduct, or internal contradictions in the claimant's testimony,
13 also may be relevant. Burrell v. Colvin, 775 F.3d 1133, 1137 (9th
14 Cir. 2014); Light v. Soc. Sec. Admin., 119 F.3d 789, 792 (9th Cir.
15 1997). In addition, the ALJ may consider the observations of
16 treating and examining physicians regarding, among other matters,
17 the functional restrictions caused by the claimant's symptoms.
18 Smolen, 80 F.3d at 1284; accord Burrell, 775 F.3d at 1137. However,
19 it is improper for an ALJ to reject subjective testimony based
20 "solely" on its inconsistencies with the objective medical evidence
21 presented. Bray v. Comm'r of Soc. Sec. Admin., 554 F.3d 1219, 1227
22 (9th Cir. 2009) (citation omitted).

23
24 Further, the ALJ must make a credibility determination with
25 findings that are "sufficiently specific to permit the court to
26 conclude that the ALJ did not arbitrarily discredit claimant's
27 testimony." Tommasetti v. Astrue, 533 F.3d 1035, 1039 (9th Cir.
28 2008) (citation omitted); see Brown-Hunter v. Colvin, 806 F.3d 487,

1 493 (9th Cir. 2015) (“A finding that a claimant’s testimony is not
2 credible must be sufficiently specific to allow a reviewing court
3 to conclude the adjudicator rejected the claimant’s testimony on
4 permissible grounds and did not arbitrarily discredit a claimant’s
5 testimony regarding pain.”) (citation omitted). Although an ALJ’s
6 interpretation of a claimant’s testimony may not be the only
7 reasonable one, if it is supported by substantial evidence, “it is
8 not [the court’s] role to second-guess it.” Rollins v. Massanari,
9 261 F.3d 853, 857 (9th Cir. 2001).

10
11 The ALJ concluded that “the overall record fails to support
12 the severity of symptoms and limitations alleged.” (AR 15). He
13 provided several specific, clear, and convincing reasons to find
14 Plaintiff’s complaints of disabling pain, numbness, and tingling
15 in her bilateral hands and wrists not entirely credible. (AR 14-
16 18). These reasons are sufficient to support the Commissioner’s
17 decision.

18
19 The ALJ noted that Plaintiff’s subjective symptoms were
20 inconsistent with her conservative course of treatment. (AR 15).
21 “[E]vidence of conservative treatment is sufficient to discount a
22 claimant’s testimony regarding severity of an impairment.” Parra
23 v. Astrue, 481 F.3d 742, 751 (9th Cir. 2007)) (citation omitted);
24 see Meanel v. Apfel, 172 F.3d 1111, 1114 (9th Cir. 1999), as amended
25 (June 22, 1999) (“Meanel’s claim that she experienced pain
26 approaching the highest level imaginable was inconsistent with the
27 ‘minimal, conservative treatment’ that she received.”). Although
28 alleging debilitating symptoms, Plaintiff admitted that she had

1 not received any medical treatment since July 2015, after settling
2 her workers' compensation claim. (AR 47). Further, as early as
3 October 2014, she reported using no medications, even over-the-
4 counter medicines. (AR 212). "Impairments that can be controlled
5 effectively with medication are not disabling for the purpose of
6 determining eligibility for SSI benefits." Warre v. Comm'r of Soc.
7 Sec. Admin., 439 F.3d 1001, 1006 (9th Cir. 2006). Instead,
8 Plaintiff used only home remedies, including exercises and heat.
9 (AR 49-50). The lack of treatment records during the relevant
10 period suggests that Plaintiff's symptoms were not as severe as
11 she alleged. See Tommasetti, 553 F.3d at 1039-40 (ALJ may properly
12 infer that claimant's pain "was not as all-disabling as he reported
13 in light of the fact that he did not seek an aggressive treatment
14 program"). Plaintiff testified that "she didn't know [she] could"
15 seek additional treatment. (AR 58). The ALJ concluded however,
16 that "[Plaintiff's] explanation makes little sense given the
17 severity of symptoms alleged." (AR 15). The ALJ properly could
18 find, after considering Plaintiff's sparse and conservative
19 treatment history, that Plaintiff's testimony and statements
20 regarding her disabling pain were not entirely credible.

21
22 The ALJ also found that Plaintiff's allegations were
23 internally inconsistent. (AR 15). "[T]he ALJ may consider
24 inconsistencies either in the claimant's testimony or between the
25 testimony and the claimant's conduct." Molina v. Astrue, 674 F.3d
26 1104, 1112 (9th Cir. 2012); see Burch v. Barnhart, 400 F.3d 676,
27 680 (9th Cir. 2005) ("ALJ may engage in ordinary techniques of
28 credibility evaluation, such as . . . inconsistencies in

1 claimant's testimony"); accord 20 C.F.R. §§ 404.1529(c)(4),
2 416.929(c)(4). While Plaintiff claimed markedly limited bilateral
3 hand and wrist use, she acknowledged at the hearing that she wrote
4 the detailed, lengthy handwritten statements reflected in her
5 Function Report and is able to lift a case of water. (Compare AR
6 165, 170, with id. 55-56; see id. 15). Further, Plaintiff reported
7 to her physician being able to take care of her four small children
8 alone and being able to "work out", meaning exercise at a gym. (AR
9 246). However, at her hearing, Plaintiff testified that she relies
10 on her four minor children for significant help with household
11 chores. (AR 53-55).

12
13 Plaintiff contends that the ALJ ignored that while she is
14 "able to perform activities of daily living she is only able to do
15 so for short periods of time and with difficulty." (Dkt. No. 19
16 at 8). "ALJs must be especially cautious in concluding that daily
17 activities are inconsistent with testimony about pain, because
18 impairments that would unquestionably preclude work and all the
19 pressures of a workplace environment will often be consistent with
20 doing more than merely resting in bed all day." Garrison, 759 F.3d
21 at 1016. Nevertheless, an ALJ properly may consider the claimant's
22 daily activities in weighing credibility. Tommasetti, 533 F.3d at
23 1039. If a claimant's level of activity is inconsistent with the
24 claimant's asserted limitations, it has a bearing on credibility.
25 Garrison, 759 F.3d at 1016. Here, the ALJ determined that despite
26 Plaintiff's alleged disabling difficulties with gripping,
27 reaching, and prolonged writing, she acknowledged engaging in daily
28 activities, including caring for her four minor children, lifting

1 a case of water, and exercising at a gym that were inconsistent
2 with her alleged disabilities.

3
4 The ALJ also noted significant discrepancies among Plaintiff's
5 statements regarding the temporal scope of her alleged disability.
6 (AR 15). While Plaintiff alleged a disability onset date of January
7 1, 2011, she acknowledged at the hearing that she likely worked
8 until December 2011. (Compare AR 130-31, with id. 38, 40-42). In
9 March 2011, she reported to her primary care physician being
10 engaged in "stressful work." (AR 246). In July 2011, Plaintiff
11 filed a workers' compensation claim for a work-related injury to
12 her hands, wrists, and shoulders while working as a case manager
13 for Maximus Cal Works. (AR 416-17); see Bray, 554 F.3d at 1227
14 (upholding ALJ's credibility finding because claimant "recently
15 worked as a personal caregiver for two years, and has sought out
16 other employment since then"). Moreover, earnings records indicate
17 2011 earnings of \$36,619.60, earnings which would be inconsistent
18 with Plaintiff's claim of a disabling injury in 2011. (AR 153).
19 "Even if the work [the claimant has] done was not substantial
20 gainful activity, it may show that [the claimant is] able to do
21 more work that [she] actually did." 20 C.F.R. § 404.1571.

22
23 Plaintiff contends that the ALJ failed to "consider [her]
24 credible testimony." (Dkt. No. 19 at 9). To the contrary, the
25 ALJ "gave some credence to [Plaintiff's] testimony of pain
26 extending from her elbows to her neck." (AR 18). The ALJ limited
27 Plaintiff to only "frequent handling, grasping, gripping and
28 fingering with the bilateral upper extremities; she is unable to

1 engage in keyboard use for more than 30 minutes in an hour; and
2 she is limited to occasional overhead reaching with the bilateral
3 upper extremities.” (AR 14). The RFC is consistent with the
4 clinical findings of Drs. Chaves, Sedgh, and Alberty (AR 70-82,
5 621-26, 790-807), which Plaintiff does not contest. See Stubbs-
6 Danielson v. Astrue, 539 F.3d 1169, 1175 (9th Cir. 2008) (finding
7 that the medical evidence, i.e., physicians’ opinions that the
8 claimant was able to perform a limited range of work, supported
9 the ALJ’s credibility determination).

10

11 In sum, the ALJ offered clear and convincing reasons,
12 supported by substantial evidence in the record, for his adverse
13 credibility findings. Accordingly, because substantial evidence
14 supports the ALJ’s assessment of Plaintiff’s credibility, no remand
15 is required.

16

17

VIII.

18

CONCLUSION

19

20 Consistent with the foregoing, IT IS ORDERED that Judgment be
21 entered AFFIRMING the decision of the Commissioner. The Clerk of
22 the Court shall serve copies of this Order and the Judgment on
23 counsel for both parties.

24

25 DATED: March 14, 2018

26

27

/s/
SUZANNE H. SEGAL
UNITED STATES MAGISTRATE JUDGE

28

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

**THIS DECISION IS NOT INTENDED FOR PUBLICATION IN WESTLAW,
LEXIS/NEXIS OR ANY OTHER LEGAL DATABASE.**