UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

KEVIN E.,[1] Plaintiff, v. ANDREW SAUL, Commissioner of Social Security Administration, Defendant.	Case No. 2:19-cv-09831-JC MEMORANDUM OPINION

I. SUMMARY

On November 15, 2019, plaintiff filed a Complaint seeking review of the Commissioner of Social Security's denial of his application for benefits. The parties have consented to proceed before the undersigned United States Magistrate Judge.

This matter is before the Court on plaintiff's motion for summary judgment ("Plaintiff's Motion") and defendant's memorandum in opposition ("Defendant's Mem."). The Court has taken the parties' arguments under submission without oral argument. See Fed. R. Civ. P. 78; L.R. 7-15; Case Management Order ¶ 5.

[1]Plaintiff's name is partially redacted to protect his privacy in compliance with Federal Rule of Civil Procedure 5.2(c)(2)(B) and the recommendation of the Committee on Court Administration and Case Management of the Judicial Conference of the United States.

Based on the record as a whole and the applicable law, the decision of the Commissioner is AFFIRMED. The findings of the Administrative Law Judge ("ALJ") are supported by substantial evidence and are free from material error.

II. BACKGROUND AND SUMMARY OF ADMINISTRATIVE DECISION

On October 8, 2015, plaintiff filed an application for Disability Insurance Benefits, alleging disability beginning on December 30, 2010, due to neck, back, and foot problems, as well as traumatic brain injury, post-traumatic stress disorder (PTSD), and sleep apnea. (See Administrative Record ("AR") 241-41, 318). An ALJ subsequently examined the medical record and heard testimony from plaintiff (who was represented by counsel) and a vocational expert on August 16, 2018. (AR 39-119). On October 31, 2018, the ALJ determined that plaintiff had not been disabled from the alleged onset date of December 30, 2010, to the date last insured, September 30, 2016. (AR 16-33). Specifically, the ALJ found: (1) plaintiff suffered from the following severe impairments: a mental impairment diagnosed to include post-traumatic stress disorder and depressive disorder; degenerative disc disease of the lumbar spine; status post right elbow arthroscopy; status post bilateral hallux osteotomy; and degenerative joint disease of the left shoulder (AR 19); (2) plaintiff's impairments, considered individually or in combination, did not meet or medically equal a listed impairment (AR 22); (3) plaintiff retained the residual functional capacity ("RFC") to perform a reduced range of light work[2] (20 C.F.R.

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[2]The ALJ specifically found that plaintiff had the following RFC:

> [Plaintiff can] perform light work . . . except he can no more than occasionally climb ramps and stairs, and never climb ladders, ropes, or scaffolds. [Plaintiff] can occasionally balance, stoop, kneel, crouch, but never crawl. He can never work in the presence of unprotected heights or hazardous machinery; he should not be required to operate a motor vehicle as part of the job duties. [Plaintiff] is limited to performing simple and routine tasks; he can use judgment required for simple

(continued...)

§§ 404.1567(b)) (AR 25); (4) plaintiff could not perform his past relevant work (AR 30); (5) plaintiff was capable of performing other jobs that existed in significant numbers in the national economy, specifically small products assembler, office helper, lens inserter, bench assembler or table worker, and preparer in the jewelry industry. (AR 31-33); and (6) plaintiff's statements regarding the intensity, persistence, and limiting effects of subjective symptoms were not entirely consistent with the medical evidence and other evidence in the record (AR 27-28).

On September 20, 2019, the Appeals Council denied plaintiff's application for review of the ALJ's decision. (AR 1-3).

III. APPLICABLE LEGAL STANDARDS

A. Administrative Evaluation of Disability Claims

To qualify for disability benefits, a claimant must show that he is unable "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); 20 C.F.R. §§ 404.1505(a), 416.905. To be considered disabled, a claimant must have an impairment of such severity that he is incapable of performing work the claimant previously performed ("past relevant work") as well as any other "work which exists in the national economy." Tackett v. Apfel, 180 F.3d 1094, 1098 (9th Cir. 1999) (citing 42 U.S.C. § 423(d)).

To assess whether a claimant is disabled, an ALJ is required to use the five-step sequential evaluation process set forth in Social Security regulations. See Stout

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[2](...continued)
routine tasks and simple work-related decisions; he can deal with changes in the work setting that are required for simple work and work-related decisions. [Plaintiff] should have no more than occasional interaction with supervisors and co-workers and never work with the public.

(AR 25).

v. Comm'r, Soc. Sec. Admin., 454 F.3d 1050, 1052 (9th Cir. 2006) (describing five-step sequential evaluation process) (citing 20 C.F.R. §§ 404.1520, 416.920). The claimant has the burden of proof at steps one through four – *i.e.*, determination of whether the claimant was engaging in substantial gainful activity (step 1), has a sufficiently severe impairment (step 2), has an impairment or combination of impairments that meets or medically equals one of the conditions listed in 20 C.F.R. Part 404, Subpart P, Appendix 1 ("Listings") (step 3), and retains the residual functional capacity to perform past relevant work (step 4). Burch v. Barnhart, 400 F.3d 676, 679 (9th Cir. 2005) (citation omitted). The Commissioner has the burden of proof at step five – *i.e.*, establishing that the claimant could perform other work in the national economy. Id.

B. Federal Court Review of Social Security Disability Decisions

A federal court may set aside a denial of benefits only when the Commissioner's "final decision" was "based on legal error or not supported by substantial evidence in the record." 42 U.S.C. § 405(g); Trevizo v. Berryhill, 871 F.3d 664, 674 (9th Cir. 2017) (citation and quotation marks omitted). The standard of review in disability cases is "highly deferential." Rounds v. Comm'r of Soc. Sec. Admin., 807 F.3d 996, 1002 (9th Cir. 2015) (citation and quotation marks omitted). Thus, an ALJ's decision must be upheld if the evidence could reasonably support either affirming or reversing the decision. Trevizo, 871 F.3d at 674-75 (citations omitted). Even when an ALJ's decision contains error, it must be affirmed if the error was harmless. See Treichler v. Comm'r of Soc. Sec. Admin., 775 F.3d 1090, 1099 (9th Cir. 2014) (ALJ error harmless if (1) inconsequential to the ultimate nondisability determination; or (2) ALJ's path may reasonably be discerned despite the error) (citation and quotation marks omitted).

Substantial evidence is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." Trevizo, 871 F.3d at 674 (defining "substantial evidence" as "more than a mere scintilla, but less than a

preponderance") (citation and quotation marks omitted). When determining whether substantial evidence supports an ALJ's finding, a court "must consider the entire record as a whole, weighing both the evidence that supports and the evidence that detracts from the Commissioner's conclusion[.]" Garrison v. Colvin, 759 F.3d 995, 1009 (9th Cir. 2014) (citation and quotation marks omitted).

Federal courts review only the reasoning the ALJ provided, and may not affirm the ALJ's decision "on a ground upon which [the ALJ] did not rely." Trevizo, 871 F.3d at 675 (citations omitted). Hence, while an ALJ's decision need not be drafted with "ideal clarity," it must, at a minimum, set forth the ALJ's reasoning "in a way that allows for meaningful review." Brown-Hunter v. Colvin, 806 F.3d 487, 492 (9th Cir. 2015) (citing Treichler, 775 F.3d at 1099).

A reviewing court may not conclude that an error was harmless based on independent findings gleaned from the administrative record. Brown-Hunter, 806 F.3d at 492 (citations omitted). When a reviewing court cannot confidently conclude that an error was harmless, a remand for additional investigation or explanation is generally appropriate. See Marsh v. Colvin, 792 F.3d 1170, 1173 (9th Cir. 2015) (citations omitted).

IV. DISCUSSION

Plaintiff solely challenges the ALJ's reliance on the vocational expert's testimony at step five. (Plaintiff's Motion at 13-21). For the reasons stated below, the Court concludes that a reversal or remand is not warranted.

A. Pertinent Law

At step five, the Commissioner must prove that other work exists in "significant numbers" in the national economy which could be done by an individual with the same RFC, age, education, and work experience as the claimant. 42 U.S.C. § 423(d)(2)(A); 20 C.F.R. §§ 404.1520(a)(4)(v) & (g), 404.1560(c), 416.920(a)(4)(v) & (g), 416.960(c); Heckler v. Campbell, 461 U.S. 458, 461-62

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(1983); see Zavalin v. Colvin, 778 F.3d 842, 845 (9th Cir. 2015) (describing legal framework for step five) (citations omitted).

One way the Commissioner may satisfy this burden is by obtaining testimony from an impartial vocational expert (alternatively, "VE") about the type of work such a claimant is still able to perform, as well as the availability of related jobs in the national economy. See Gutierrez v. Colvin, 844 F.3d 804, 806-07 (9th Cir. 2016) (citation omitted); Osenbrock v. Apfel, 240 F.3d 1157, 1162 (9th Cir. 2001) (citing Tackett, 180 F.3d at 1100-01). When a vocational expert is consulted at step five, the ALJ typically asks the vocational expert at the hearing to identify specific examples of occupations that could be performed by a hypothetical individual with the same characteristics as the claimant. Zavalin, 778 F.3d at 846 (citations omitted); Hill v. Astrue, 698 F.3d 1153, 1161 (9th Cir. 2012) (citations omitted). The vocational expert's responsive testimony may constitute substantial evidence of a claimant's ability to perform such sample occupations so long as the ALJ's hypothetical question included all of the claimant's limitations supported by the record. See Hill, 698 F.3d at 1161-62 (citations omitted); Robbins v. Soc. Sec. Admin., 466 F.3d 880, 886 (9th Cir. 2006) (citation omitted).

A vocational expert's testimony generally should be consistent with the Dictionary of Occupational Titles ("DOT").[3] See Lamear v. Berryhill, 865 F.3d 1201, 1205 (9th Cir. 2017) ("Presumably, the opinion of the VE would comport with the DOT's guidance."); see generally Gutierrez, 844 F.3d at 807 (DOT "guides the [ALJ's] analysis" at step five). To the extent it is not – *i.e.*, the VE's opinion

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[3]The DOT, which is compiled by the U.S. Department of Labor, "details the specific requirements for different occupations," and is the Social Security Administration's "'primary source of reliable job information' regarding jobs that exist in the national economy." Gutierrez, 844 F.3d at 807; Zavalin, 778 F.3d at 845-46 (citing Terry v. Sullivan, 903 F.2d 1273, 1276 (9th Cir. 1990)); see also 20 C.F.R. §§ 404.1566(d)(1), 404.1569, 416.966, 416.969. Neither the DOT nor a vocational expert's opinion, however, "automatically 'trumps'" where there is a conflict. Massachi v. Astrue, 486 F.3d 1149, 1153 (9th Cir. 2007) (quoting Social Security Ruling 00-4p) (internal quotation marks omitted).

"conflicts with, or seems to conflict with" the DOT – an ALJ may not rely on the VE's testimony to deny benefits at step five unless and until the ALJ has adequately resolved any such conflict. Gutierrez, 844 F.3d at 807 (citing Social Security Ruling ("SSR") 00-4P, 2000 WL 1898704, at *2 (2000)); Rounds, 807 F.3d at 1003-04 (citations omitted); SSR 00-4p, 2000 WL 1898704, at *4 ("When vocational evidence provided by a VE [ ] is not consistent with information in the DOT, the [ALJ] must resolve [the] conflict before relying on the VE [ ] evidence to support a determination or decision that the individual is or is not disabled."). In each case where vocational expert testimony is used, an ALJ generally must affirmatively

> (1) ask the VE whether there is a conflict between the expert's opinions and the DOT requirements for a particular occupation;
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> (2) "obtain a reasonable explanation for any apparent conflict"; and
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> (3) explain in the decision how the ALJ resolved any such conflict.

Massachi, 486 F.3d at 1152-53 (quoting SSR 00-4p). An ALJ need only resolve those conflicts that are "apparent or obvious." Gutierrez, 844 F.3d at 807-08. A conflict is "apparent or obvious" only when vocational expert testimony is "at odds with" DOT requirements that are "essential, integral, or expected" for a particular occupation. Id. at 808.

B. Analysis

At the hearing, the ALJ posed to the vocational expert a hypothetical containing all of plaintiff's functional limitations as found by the ALJ, which plaintiff does not dispute. (See AR 25, 97-98). In response, the VE identified several representative occupations that a person with these limitations could perform. (AR 98-100). Plaintiff's counsel then engaged in lengthy cross-examination regarding these occupations (see AR 100-18), and later submitted a post-hearing brief disputing the vocational expert's testimony and requesting a supplemental hearing to further examine the vocational expert (AR 431-35). The ALJ denied the request but discussed at least some of plaintiff's specific contentions

in the decision. (AR 31-33). The ALJ then relied on the vocational expert's testimony to find plaintiff could perform the following representative jobs existing in significant numbers in the national economy:

1 small products assembler (Dictionary of Occupational Titles ("DOT") 706.684-022), about 80,000 jobs nationally;

2 office helper (DOT 239.567-010), about 75,000 jobs nationally;

3 lens inserter (DOT 713.687-026), about 20,000 jobs nationally;

4 bench assembler or table worker (DOT 739.687-182), about 10,000 jobs nationally;

5 preparer in the jewelry industry (DOT 700.687-062), about 10,000 jobs nationally.[4]

(AR 31-33). Plaintiff argues that the vocational expert's testimony conflicts with the DOT and other occupational sources in a variety of respects.[5]

Plaintiff contends, among other things, that the duties of a "small products assembler" are inconsistent with his RFC limitation to only occasional interaction with supervisors and coworkers. (Plaintiff's Motion at 14). At the hearing, as plaintiff points out, the vocational expert acknowledged that the DOT defines this job as involving "repetitive tasks *on [an] assembly line* to mass produce small products." (AR 106; see DOT 706.684-022) (emphasis added). When counsel asked if the vocational expert "consider[s] assembly line work . . . to require more than occasional contact with supervisors and coworkers," the vocational expert replied yes, "[e]specially in a production type occupation," though it "just depends

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[4]The first two (small products assembler and office helper) are *light* unskilled jobs, while the latter three (lens inserter, bench assembler or table worker, and preparer in jewelry) are described as *sedentary* unskilled jobs. (AR 32-33, 98-100).

[5]Although some of the contentions raised by plaintiff here were not raised at the hearing, plaintiff's counsel did raise them during administrative proceedings either in the post-hearing brief to the ALJ (AR 431-35) or a brief submitted later to the Appeals Council (AR 646-49). Defendant does not argue that any issues raised here are waived.

on the company and the supervisor." (AR 104). This suggests there may be, as plaintiff argues, an unresolved conflict between the DOT's requirements of a small products assembler and plaintiff's limitation to occasional interaction with supervisors and coworkers. However, any error on this point is harmless because substantial evidence supports the ALJ's finding that plaintiff could perform several other representative occupations existing in significant numbers in the national economy.[6] See Treichler, 775 F.3d at 1099 (ALJ error harmless if inconsequential to the ultimate nondisability determination); Anna F. v. Saul, 2020 WL 7024924, at *6 (C.D. Cal. Nov. 30, 2020) (ALJ error in accepting the VE's testimony about one job that plaintiff could perform was harmless because substantial evidence supported the ALJ's finding that plaintiff could perform other jobs in significant numbers in the national economy).

Plaintiff also argues that the duties of an "office helper" conflict with his RFC, which limits him to "performing simple and routine tasks," "us[ing] judgment required for simple routine tasks and simple work-related decisions," and "deal[ing] with changes in the work setting that are required for simple work and work-related decisions." (Plaintiff's Motion at 13-16; AR 25). As the vocational expert acknowledged, the DOT provides that office helpers must "perform[] a VARIETY of duties," DOT 239.567-010, 1991 WL 672232, which the DOT's companion

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[6]There is no bright-line rule as to what constitutes a "significant" number of jobs nationally, but any aggregate number over 25,000 clearly suffices. See Gutierrez v. Comm'r of Soc. Sec., 740 F.3d 519, 529 (9th Cir. 2014) (25,000 nationwide jobs significant, but a "close call"); Moncada v. Chater, 60 F.3d 521, 524 (9th Cir.1995) (per curiam) (64,000 nationwide jobs significant); Thomas v. Barnhart, 278 F.3d 947, 960 (9th Cir. 2002) (622,000 nationwide jobs significant); Moore v. Apfel, 216 F.3d 864, 869 (9th Cir. 2000) (125,000 nationwide jobs significant); see also Beltran v. Astrue, 700 F.3d 386, 390 (9th Cir. 2012) (1,680 nationwide jobs insignificant); Anna F. v. Saul, 2020 WL 7024924, at *6 (C.D. Cal. Nov. 30, 2020) (21,100 jobs in the national economy was significant number); Valencia v. Astrue, 2013 WL 1209353, at *18 (N.D. Cal. Mar. 25, 2013) (14,082 jobs in the national economy was not a significant number).

publication, Selected Characteristics of Occupations ("SCO"),[7] defines to include "often changing from one task to another of a different nature without loss of efficiency or composure." (AR 110; see AR 492). The vocational expert testified, based on his own research, that the office helper job is "pretty routine with minimal changes," and an office helper "can work on certain things for a period of time and then move to another and so on and so on." (AR 110-11). Plaintiff contends that the vocational expert's characterization of the job conflicts with the SCO description. (Plaintiff's Motion at 16). However, as numerous courts in this Circuit have concluded, the requirements of the office helper job are consistent with a limitation to simple, routine, repetitive tasks, notwithstanding the job's requirement of switching between a variety of tasks. See, e.g., Lyn B. v. Comm'r of Soc. Sec., 2019 WL 1491174, at *8 (C.D. Cal. Apr. 3, 2019) ("limitation to simple, routine, and repetitive tasks" did not conflict with office helper job's requirement of "performing a variety of duties"); Jerome M. H. v. Berryhill, 2019 WL 994966, at *2 (C.D. Cal. Feb. 7, 2019) (finding office helper position compatible with limitation to simple repetitive tasks and noting plaintiff had "failed to demonstrate why a person limited to simple repetitive tasks could not also frequently change tasks"); Lewis v. Colvin, 2016 WL 397626, at *5 (E.D. Cal. Feb. 2, 2016), aff'd, 708 F. App'x 919 (9th Cir. 2018) (finding no conflict between plaintiff's limitation to simple instructions or simple, repetitive tasks and performing a variety of job duties as an office helper). Plaintiff has therefore failed to identify any material conflict between the DOT and the vocational expert's testimony that a person who is limited to simple, routine tasks and can handle "changes in the work setting that

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[7]The ALJ is required to resolve conflicts with this companion publication as well as the DOT. See SSR 00-4p (stating that adjudicators must "[i]dentify and obtain a reasonable explanation for any conflicts between occupational evidence provided by VEs ... and information in the [DOT], including its companion publication, the Selected Characteristics of Occupations Defined in the Revised Dictionary of Occupational Titles (SCO)").

are required for simple work and work-related decisions" can nonetheless perform the duties of an office helper.

Plaintiff additionally disputes whether some of the jobs at issue – specifically, small products assembler, preparer, lens inserter, and table worker – properly qualify as "unskilled." (Plaintiff's Motion at 16-17). Plaintiff asserts that, according to the Occupational Outlook Handbook ("OOH"), these jobs are broadly categorized as occupations requiring "moderate-term on-the-job-training," defined as "more than one month and up to 12 months of on-the-job experience and informal training," whereas the Social Security regulations define "unskilled" jobs as those that "a person can usually learn to do the job in 30 days, and little specific vocational preparation and judgment are needed." (Plaintiff's Motion at 16-17; AR 529, 531, 606, 608; 20 C.F.R. § 416.968(a)). However, even if the vocational expert's testimony conflicted with the OOH on this point, the testimony was directly consistent with the DOT, which lists each of the occupations as SVP Level 2, equivalent to unskilled work. See SSR 00-4P, 2000 WL 1898704, at *3 ("The DOT lists a specific vocational preparation (SVP) time for each described occupation. Using the skill level definitions in 20 CFR 404.1568 and 416.968, unskilled work corresponds to an SVP of 1-2; semi-skilled work corresponds to an SVP of 3-4; and skilled work corresponds to an SVP of 5-9 in the DOT"). The ALJ thus properly relied on the VE's testimony and was not required to resolve any purported conflict with the OOH. See Vizcarra v. Berryhill, 2018 WL 1684315, at *3 (C.D. Cal. Apr. 5, 2018) (ALJ not required to resolve discrepancy between vocational expert's testimony and OOH as to whether jobs qualified as unskilled), aff'd, __ F. App'x __ (9th Cir. Jan. 13, 2021); Markell v. Berryhill, 2017 WL 6316825, at *11 (N.D. Cal. Dec. 11, 2017) (same).

Plaintiff's remaining arguments all challenge the vocational expert's job numbers, which plaintiff argues are unreliable and in conflict with various non-DOT sources, such as County Business Patterns, the OOH, O*NET OnLine, Job Browser

Pro, and the Occupational Requirements Survey. (Plaintiff's Motion at 16, 18-21). However, as numerous courts in this Circuit have concluded, a lay assessment of data from these sources fails to undermine the reliability of the vocational expert's testimony. See, e.g., Selia R. v. Saul, 2020 WL 3620228, at *14 (E.D. Wash. Apr. 27, 2020) ("[C]ourts in this circuit considering similar arguments have found that lay assessment of raw data does not rebut a vocational expert's opinion."); David G. v. Saul, 2020 WL 1184434, at *5 (C.D. Cal. Mar. 11, 2020) ("Plaintiff's subjective lay assessment of the data [from various non-DOT sources] is insufficient to undermine the VE's analysis."); Paredes Ruiz v. Saul, 2020 WL 528846, at *4 (E.D. Cal. Feb. 3, 2020) ("Plaintiff's effort to undermine the reliability of the VE's testimony through her own lay assessment of vocational information and job data [from County Business Patterns and the OOH] is unavailing."), appeal docketed, No. 20-15286 (9th Cir. Feb. 21, 2020); Jose Alfredo G. v. Saul, 2019 WL 6652086, at *6 (S.D. Cal. Dec. 5, 2019) ("Plaintiff merely presents a lay interpretation of the alternative OOH and O*NET data. Lay assessments alone are insufficient to undermine the VE's analysis; such attempts have been 'uniformly rejected by numerous courts.'") (quoting Merryflorian v. Astrue, 2013 WL 4783069, at *5 (S.D. Cal. Sept. 6, 2013)); Kimberly P. v. Saul, 2019 WL 4736975, at *5 (C.D. Cal. Sept. 26, 2019) ("Here, plaintiff offers nothing more than raw data from Job Browser Pro, with no expert explanation of the numbers in the report. . . . [A]bsent expert testimony interpreting the raw data submitted, it fails to undermine the VE's expert testimony."); Shaibi v. Saul, 2019 WL 3530388, at *7 (E.D. Cal. Aug. 2, 2019) ("[C]ounsel's lay assessment of the data derived from the [OOH] and Job Browser Pro does not undermine the reliability of the vocational expert's testimony. Counsel has not offered any expert opinion interpreting data from these or other sources to undercut the VE's analysis."); Kirby v. Berryhill, 2018 WL 4927107, at *5 (C.D. Cal. Oct. 10, 2018) ("[C]ounsel's lay assessment of the data derived from the OOH and Job Browser Pro does not undermine the reliability of the vocational

expert's testimony."), appeal docketed, No. 18-56511 (9th Cir. Nov. 9, 2018); Colbert v. Berryhill, 2018 WL 1187549, at *5 (C.D. Cal. Mar. 7, 2018) (ALJ properly relied on vocational expert testimony regarding job numbers where claimant argued that the expert's numbers were inflated based on Job Browser Pro estimates; noting that Job Browser Pro is not a source listed in 20 C.F.R. § 416.966(d), and the data therefrom served only to show that evidence can be interpreted in different ways).

Plaintiff fails to show that the ALJ erred by not specifically addressing contentions regarding the job numbers based on these non-DOT sources. See Ruby V. v. Saul, 2020 WL 2307237, at *6 (C.D. Cal. May 8, 2020) (ALJ properly relied on vocational expert testimony and had no obligation to address asserted job number conflicts with non-DOT sources raised in post-hearing submissions), appeal docketed, No. 20-55586 (9th Cir. June 8, 2020). Instead, the ALJ reasonably relied on the vocational expert's testimony regarding job numbers at step five, which alone constitutes substantial evidence. See Ford v. Saul, 950 F.3d 1141, 1160 (9th Cir. 2020) ("Given its inherent reliability, a qualified vocational expert's testimony as to the number of jobs existing in the national economy that a claimant can perform is ordinarily sufficient by itself to support an ALJ's step-five finding.") (citations omitted); Bayliss v. Barnhart, 427 F.3d 1211, 1218 (9th Cir. 2005) ("An ALJ may take administrative notice of any reliable job information, including information provided by a VE. A VE's recognized expertise provides the necessary foundation for his or her testimony. Thus, no additional foundation is required.") (citing Johnson v. Shalala, 60 F.3d 1428, 1435 (9th Cir. 1995)). Plaintiff's evidence arguably suggesting an alternative number of available jobs does not warrant remand. See Thomas v. Barnhart, 278 F.3d 947, 954 (9th Cir. 2002) ("Where the evidence is susceptible to more than one rational interpretation, one of which supports the ALJ's decision, the ALJ's conclusion must be upheld."); see also Gardner v. Colvin, 2013 WL 781984, at *3 (C.D. Cal. Mar. 1, 2013) (finding no

basis for remand where claimant presented evidence sufficient to support an alternative finding regarding the number of relevant jobs available in the economy).

Accordingly, plaintiff fails to demonstrate any material error in the ALJ's conclusion that plaintiff is capable of performing the duties of jobs existing in significant numbers in the national economy, and is therefore not disabled.

V. CONCLUSION

For the foregoing reasons, the decision of the Commissioner of Social Security is AFFIRMED.

LET JUDGMENT BE ENTERED ACCORDINGLY.

DATED: January 14, 2021

/s/
Honorable Jacqueline Chooljian
UNITED STATES MAGISTRATE JUDGE