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UNITED STATES DISTRICT COURT

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CENTRAL DISTRICT OF CALIFORNIA

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PATRICIA LESLIE E., an Individual,

Case No.: 2:20-00140 ADS

Plaintiff,

v.

MEMORANDUM OPINION AND ORDER

ANDREW M. SAUL, Commissioner of  
Social Security,

Defendant.

16

**I. INTRODUCTION**

Plaintiff Patricia Leslie E.<sup>1</sup> (“Plaintiff”) challenges Defendant Andrew M. Saul, Commissioner of Social Security’s (hereinafter “Commissioner” or “Defendant”) denial of her application for a period of disability and disability insurance benefits (“DIB”).

Plaintiff contends that the Administrative Law Judge (“ALJ”) improperly assessed the

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<sup>1</sup> Plaintiff’s name has been partially redacted 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.

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1 medical evidence, as well as her subjective complaints. For the reasons stated below,  
2 the decision of the Commissioner is affirmed, and this matter is dismissed with  
3 prejudice.

4 **II. PROCEEDINGS BELOW**

5 **A. Procedural History**

6 Plaintiff protectively filed an application for DIB on May 23, 2016, alleging a  
7 disability onset date of November 15, 2015. (Administrative Record “AR” 221-27).  
8 Plaintiff’s claims were denied initially on August 1, 2016. (AR 126-29). Thereafter, on  
9 November 15, 2016, Plaintiff filed a request for an administrative hearing. (AR 72-73).  
10 A hearing was held before ALJ Diana Coburn on October 16, 2018. (AR 29-54).  
11 Plaintiff, represented by counsel, appeared and testified at the hearing. Also appearing  
12 and testifying at the hearing was vocational expert Mary E. Jesko. (Id.).

13 On December 12, 2018, the ALJ found that Plaintiff was “not disabled” within the  
14 meaning of the Social Security Act.<sup>2</sup> (AR 12-22). The ALJ’s decision became the  
15 Commissioner’s final decision when the Appeals Council denied Plaintiff’s request for  
16 review on November 8, 2019. (AR 1-6). Plaintiff then filed this action in District Court  
17 on January 6, 2020, challenging the ALJ’s decision. [Docket “Dkt.” No. 1].

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23 <sup>2</sup> Persons are “disabled” for purposes of receiving Social Security benefits if they are  
24 unable to engage in any substantial gainful activity owing to a physical or mental  
impairment expected to result in death, or which has lasted or is expected to last for a  
continuous period of at least 12 months. 42 U.S.C. §423(d)(1)(A).

1 On June 17, 2020, Defendant filed an Answer, as well as a copy of the Certified  
2 Administrative Record. [Dkt. Nos. 13, 14]. The parties filed a Joint Submission on  
3 October 3, 2020. [Dkt. No. 18]. The case is ready for decision.<sup>3</sup>

4 **B. Summary of ALJ Decision After Hearing**

5 In the decision (AR 12-22), the ALJ followed the required five-step sequential  
6 evaluation process to assess whether Plaintiff was disabled under the Social Security  
7 Act.<sup>4</sup> 20 C.F.R. § 404.1520(a). At **step one**, the ALJ found that Plaintiff had not been  
8 engaged in substantial gainful activity since November 15, 2015, the alleged onset date.  
9 (AR 17). At **step two**, the ALJ found that Plaintiff had the following severe  
10 impairments: (a) post lumbar laminectomy with fusion and degenerative disc disease of  
11 the lumbar spine; and (b) degenerative disc disease of the cervical spine. (AR 17). At  
12 **step three**, the ALJ found that Plaintiff “does not have an impairment or combination  
13 of impairments that meets or medically equals the severity of one of the listed  
14 impairments in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d),  
15 404.1525 and 404.1526).” (AR 17-18).

16  
17  
18 <sup>3</sup> The parties filed consents to proceed before the undersigned United States Magistrate  
19 Judge, pursuant to 28 U.S.C. § 636(c), including for entry of final Judgment. [Dkt. Nos.  
20 9, 10].

21 <sup>4</sup> The ALJ follows a five-step sequential evaluation process to assess whether a claimant  
22 is disabled: Step one: Is the claimant engaging in substantial gainful activity? If so, the  
23 claimant is found not disabled. If not, proceed to step two. Step two: Does the claimant  
24 have a “severe” impairment? If so, proceed to step three. If not, then a finding of not  
disabled is appropriate. Step three: Does the claimant’s impairment or combination of  
impairments meet or equal an impairment listed in 20 C.F.R., Pt. 404, Subpt. P, App. 1?  
If so, the claimant is automatically determined disabled. If not, proceed to step four.  
Step four: Is the claimant capable of performing his past work? If so, the claimant is not  
disabled. If not, proceed to step five. Step five: Does the claimant have the residual  
functional capacity to perform any other work? If so, the claimant is not disabled. If  
not, the claimant is disabled. Lester v. Chater, 81 F.3d 821, 828 n.5 (9th Cir. 1995).

1 The ALJ then found that Plaintiff had the Residual Functional Capacity (“RFC”)<sup>5</sup>  
2 to perform light work as defined in 20 C.F.R. §§ 404.1567(b)<sup>6</sup>, restricted by the following  
3 limitations:

4 [Plaintiff] can lift and/or carry 20 pounds occasionally and 10 pounds  
5 frequently; she can stand and/or walk for 2 hours in an 8-hour workday  
6 and she can sit for 6 hours in an 8-hour workday; she can occasionally  
7 push and pull with both lower extremities; and she can occasionally  
8 perform all postural activities.

9 (AR 18).

10 At **step four**, the ALJ found that Plaintiff is capable of performing her past  
11 relevant work as an Office Manager. “This work does not require the performance of  
12 work-related activities precluded by the claimant’s residual functional capacity.” (AR  
13 21). As such, this concluded the ALJ’s analysis and step five was not undertaken.  
14 Accordingly, the ALJ determined that Plaintiff had not been under a disability, as  
15 defined in the Social Security Act, from November 15, 2015, through the date of her  
16 decision, December 12, 2018. (AR 22).

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17 <sup>5</sup> An RFC is what a claimant can still do despite existing exertional and nonexertional  
18 limitations. See 20 C.F.R. §416.945(a)(1).

19 <sup>6</sup> “Light work” is defined as  
20 lifting no more than 20 pounds at a time with frequent lifting or carrying  
21 of objects weighing up to 10 pounds. Even though the weight lifted may be  
22 very little, a job is in this category when it requires a good deal of walking  
23 or standing, or when it involves sitting most of the time with some pushing  
24 and pulling of arm or leg controls. To be considered capable of performing  
a full or wide range of light work, you must have the ability to do  
substantially all of these activities.

20 C.F.R. § 416.967(b); see also Rendon G. v. Berryhill, 2019 WL 2006688, at \*3 n.6  
(C.D. Cal. May 7, 2019).

1 **III. ANALYSIS**

2 **A. Issue on Appeal**

3 Plaintiff raises two issues for review: (1) whether the ALJ provided specific and  
4 legitimate reasons to reject the opinion of the treating doctors; and (2) whether the ALJ  
5 provided specific and legitimate reasons to reject the subjective limitations of Plaintiff.  
6 [Dkt. No. 18 (Joint Submission), 4].

7 **B. Standard of Review**

8 A United States District Court may review the Commissioner’s decision to deny  
9 benefits pursuant to 42 U.S.C. § 405(g). The District Court is not a trier of the facts but  
10 is confined to ascertaining by the record before it if the Commissioner’s decision is  
11 based upon substantial evidence. Garrison v. Colvin, 759 F.3d 995, 1010 (9th Cir. 2014)  
12 (District Court’s review is limited to only grounds relied upon by ALJ) (citing Connett v.  
13 Barnhart, 340 F.3d 871, 874 (9th Cir. 2003)). A court must affirm an ALJ’s findings of  
14 fact if they are supported by substantial evidence and if the proper legal standards were  
15 applied. Mayes v. Massanari, 276 F.3d 453, 458-59 (9th Cir. 2001). An ALJ can satisfy  
16 the substantial evidence requirement “by setting out a detailed and thorough summary  
17 of the facts and conflicting clinical evidence, stating his interpretation thereof, and  
18 making findings.” Reddick v. Chater, 157 F.3d 715, 725 (9th Cir. 1998) (citation  
19 omitted).

20 “[T]he Commissioner’s decision cannot be affirmed simply by isolating a specific  
21 quantum of supporting evidence. Rather, a court must consider the record as a whole,  
22 weighing both evidence that supports and evidence that detracts from the Secretary’s  
23 conclusion.” Aukland v. Massanari, 257 F.3d 1033, 1035 (9th Cir. 2001) (citations and  
24 internal quotation marks omitted). “Where evidence is susceptible to more than one

1 rational interpretation,' the ALJ's decision should be upheld." Ryan v. Comm'r of Soc.  
2 Sec., 528 F.3d 1194, 1198 (9th Cir. 2008) (citing Burch v. Barnhart, 400 F.3d 676, 679  
3 (9th Cir. 2005)); see Robbins v. Soc. Sec. Admin., 466 F.3d 880, 882 (9th Cir. 2006) ("If  
4 the evidence can support either affirming or reversing the ALJ's conclusion, we may not  
5 substitute our judgment for that of the ALJ."). However, the Court may review only "the  
6 reasons provided by the ALJ in the disability determination and may not affirm the ALJ  
7 on a ground upon which he did not rely." Orn v. Astrue, 495 F.3d 625, 630 (9th Cir.  
8 2007) (citation omitted).

9 Lastly, even if an ALJ errs, the decision will be affirmed where such error is  
10 harmless, that is, if it is "inconsequential to the ultimate nondisability determination,"  
11 or if "the agency's path may reasonably be discerned, even if the agency explains its  
12 decision with less than ideal clarity." Brown-Hunter v. Colvin, 806 F.3d 487, 492 (9th  
13 Cir. 2015) (citation omitted); Molina v. Astrue, 674 F.3d 1104, 1115 (9th Cir. 2012).

### 14 **C. The ALJ Properly Evaluated the Medical Evidence**

15 Plaintiff contends that the ALJ failed to provide specific and legitimate reasons to  
16 reject the opinions of her treating physicians in assessing her RFC. Defendant argues  
17 that the ALJ properly considered and weighed all relevant medical evidence of record in  
18 assessing whether Plaintiff's condition equals a listing and Plaintiff's RFC.

#### 19 1. Standard for Weighing Medical Opinions

20 The ALJ must consider all medical opinion evidence. 20 C.F. R. § 404.1527(b).  
21 "As a general rule, more weight should be given to the opinion of a treating source than  
22 to the opinion of doctors who do not treat the claimant." Lester v. Chater, 81 F.3d 821,  
23 830 (9th Cir. 1995) (citing Winans v. Bowen, 853 F.2d 643, 647 (9th Cir. 1987)). Where  
24 the treating doctor's opinion is not contradicted by another doctor, it may only be

1 rejected for “clear and convincing” reasons. Id. (citing Bayliss v. Barnhart, 427 F.3d  
2 1211, 1216 (9th Cir. 2005)). “If a treating or examining doctor’s opinion is contradicted  
3 by another doctor’s opinion, an ALJ may only reject it by providing specific and  
4 legitimate reasons that are supported by substantial evidence.” Trevizo v. Berryhill, 871  
5 F.3d 664, 675 (9th Cir. 2017) (quoting Bayliss, 427 F.3d at 1216).

6 “Substantial evidence” means more than a mere scintilla, but less than a  
7 preponderance; it is such relevant evidence as a reasonable person might accept as  
8 adequate to support a conclusion.” Lingenfelter v. Astrue, 504 F.3d 1028, 1035 (9th Cir.  
9 2007) (citing Robbins, 466 F.3d at 882). “The ALJ can meet this burden by setting out a  
10 detailed and thorough summary of the facts and conflicting clinical evidence, stating his  
11 interpretation thereof, and making findings.” Magallanes v. Bowen, 881 F.2d 747, 751  
12 (9th Cir. 1989) (citation omitted); see also Tommasetti v. Astrue, 533 F.3d 1035, 1041  
13 (9th Cir. 2008) (finding ALJ had properly disregarded a treating physician’s opinion by  
14 setting forth specific and legitimate reasons for rejecting the physician’s opinion that  
15 were supported by the entire record).

16 As noted above, an RFC is what a claimant can still do despite existing exertional  
17 and nonexertional limitations. See 20 C.F.R. §§ 404.1545(a)(1). Only the ALJ is  
18 responsible for assessing a claimant’s RFC. See 20 C.F.R. § 404.1546(c). “It is clear that  
19 it is the responsibility of the ALJ, not the claimant’s physician, to determine residual  
20 functional capacity.” Vertigan v. Halter, 260 F.3d 1044, 1049 (9th Cir. 2001) (citing 20  
21 C.F.R. § 404.1545).

1                   2.     All Medical Evidence of Record Was Properly Considered,  
2                             Including Whether Plaintiff's Impairment Equaled Listing 1.04A

3             Plaintiff contends that the ALJ failed to provide specific and legitimate to reject  
4 the opinions of her treating physicians. The emphasis of Plaintiff's argument is that the  
5 ALJ improperly rejected the opinion of her treating physician, Helen Chung M.D., that  
6 Plaintiff equaled listing 1.04A due to her post laminectomy syndrome and the pain it  
7 caused. Plaintiff cites to a two-page form that Dr. Chung completed regarding listing  
8 1.04A. (AR 961). As Defendant properly notes, nowhere on that form does Dr. Chung  
9 opine that Plaintiff's impairments equaled a listing. Dr. Chung, without any explanation  
10 or opinion, merely checks a box on a standardized form. Indeed, the opinions of Dr.  
11 Chung set forth in the form at issue discuss Plaintiff's disorder of the spine, with  
12 limitations in her flexion, pain with squatting, some sensory or reflex loss, but no  
13 positive straight-leg raising test and no muscle weakness or motor loss. (AR 961-62).  
14 Dr. Chung also noted that Plaintiff's impairment did limit Plaintiff's activities of daily  
15 living. The ALJ did take into consideration and gave weight to Dr. Chung's opinions in  
16 finding that Plaintiff's post lumbar laminectomy with fusion, degenerative disc disease  
17 of the lumbar spine, and degenerative disc disease of the cervical spine were severe  
18 impairments. (AR 17). Dr. Chung, however, provides no further opinions of how  
19 Plaintiff's lumbar disc degeneration and post laminectomy syndrome might meet the  
20 criteria of listing 1.04A. See Sullivan v. Zebley, 493 U.S. 521, 530 (1990) ("For a  
21 claimant to show that his impairment matches a listing, it must meet *all* of the specified  
22 medical criteria. An impairment that manifests only some of those criteria, no matter  
23 how severely, does not qualify.") (emphasis in original); Lewis v. Apfel, 236 F.3d 503,  
24 514 (9th Cir. 2001) (a claimant must offer a variable theory as to how a combination of



1 impairment equals a listing before an ALJ can be said to have “err[ed] in concluding  
2 that [the claimant]’s conditions did not equal a listed impairment.”].

3 Important to note, other than pointing to this mere checked box on a  
4 standardized form by Dr. Chung (with no supporting statements or opinions by Dr.  
5 Chung), Plaintiff makes no argument that her impairments otherwise equal listing  
6 1.04A. Thus, even if the ALJ’s failure to discuss the checked box form was in error, such  
7 error was harmless as there is no support anywhere in the record, nor does Plaintiff  
8 point to any, that her impairments in any way meet the specified criteria of listing 1.04A.  
9 See Brown-Hunter, 806 F.3d at 492 (even if an ALJ errs, the decision will be affirmed  
10 where such error is harmless); Molina, 674 F.3d at 1115.

11 Plaintiff further argues that the ALJ erred in giving greater weight to the opinion  
12 of the consultative examining physician, Richard Pollis, M.D. over that of her treating  
13 physician, Matthew Hwang, M.D. There is no error by the ALJ in assessing greater  
14 weight to the opinion of Dr. Pollis. The ALJ gave specific and legitimate reasons for  
15 discounting the opinion of Dr. Hwang. (AR 19-21). The ALJ reviewed the findings of  
16 Dr. Hwang and found the “functional limitations are overly restrictive and not  
17 supported by the medical records.” (AR 21). The ALJ further noted that Plaintiff had  
18 recovered from her surgery in stable condition. (Id.). Furthermore, the ALJ specifically  
19 pointed out that Dr. Pollis had “interviewed, observed and examined” the Plaintiff and  
20 reported that Plaintiff was “generally within normal limits besides exhibiting a moderate  
21 left side antalgic limp and parabertebral muscle tenderness and spasm.” (AR 19). Dr.  
22 Pollis found Plaintiff capable of performing work as set forth in the assessed RFC with  
23 the provided limitations. The ALJ found Dr. Pollis' opinion to be consistent with the  
24 findings and the medical evidence.

1 The Court therefore finds the ALJ properly assessed the medical evidence of  
2 record. Plaintiff would simply prefer the ALJ to have a different interpretation of the  
3 medical evidence than that assessed. However, it is the role of the ALJ to resolve any  
4 conflicts or ambiguities in the medical record. See Tommasetti, 533 F.3d at 1041-42  
5 (“The ALJ is the final arbiter with respect to resolving ambiguities in the medical  
6 evidence.”): Andrews v. Shalala, 53 F.3d 1035, 1041 (9th Cir. 1995) (holding that it is the  
7 ALJ’s job to resolve any conflicts). See Ryan v. Comm’r of Soc. Sec., 528 F.3d 1194, 1198  
8 (9th Cir. 2008) (“Where evidence is susceptible to more than one rational  
9 interpretation,’ the ALJ’s decision should be upheld.”) (citation omitted); Robbins v.  
10 Soc. Sec. Admin., 466 F.3d 880, 882 (9th Cir. 2006) (“If the evidence can support either  
11 affirming or reversing the ALJ’s conclusion, we may not substitute our judgment for that  
12 of the ALJ.”). Indeed, an ALJ is not obligated to discuss “every piece of evidence” when  
13 interpreting the evidence and developing the record. See Howard ex rel. Wolff v.  
14 Barnhart, 341 F.3d 1006, 1012 (9th Cir. 2003) (citation omitted). Similarly, an ALJ is  
15 also not obligated to discuss every word of a doctor’s opinion or include limitations not  
16 actually assessed by the doctor. See Fox v. Berryhill, 2017 WL 3197215, \*5 (C.D. Cal. July  
17 27, 2017); Howard, 341 F.3d at 1012. The Court finds no error by the ALJ in considering  
18 the medical record in assessing Plaintiff’s RFC.

19 **D. Whether the ALJ Properly Evaluated Plaintiff’s Testimony**

20 Plaintiff asserts that the ALJ did not properly evaluate her testimony regarding  
21 her symptoms and limitations. Defendant, on the other hand, contends the ALJ  
22 properly evaluated Plaintiff’s subjective statements, finding them inconsistent with the  
23 record.  
24

1                   1. Legal Standard for Evaluating Claimant’s Testimony

2                   A claimant carries the burden of producing objective medical evidence of his or  
3 her impairments and showing that the impairments could reasonably be expected to  
4 produce some degree of the alleged symptoms. Benton ex rel. Benton v. Barnhart, 331  
5 F.3d 1030, 1040 (9th Cir. 2003). Once the claimant meets that burden, medical  
6 findings are not required to support the alleged severity of pain. Bunnell v. Sullivan,  
7 947 F.2d 341, 345 (9th Cir. 1991) (en banc); see also Light v. Soc. Sec. Admin., 119 F.3d  
8 789, 792 (9th Cir. 1997) (“claimant need not present clinical or diagnostic evidence to  
9 support the severity of his pain”) (citation omitted)). Defendants does not contest, and  
10 thus appears to concede, that Plaintiff carried her burden of producing objective medical  
11 evidence of her impairments and showing that the impairments could reasonably be  
12 expected to produce some degree of the alleged symptoms.

13                   Once a claimant has met the burden of producing objective medical evidence, an  
14 ALJ can reject the claimant’s subjective complaint “only upon (1) finding evidence of  
15 malingering, or (2) expressing clear and convincing reasons for doing so.” Benton, 331  
16 F.3d at 1040. To discredit a claimant's symptom testimony when the claimant has  
17 provided objective medical evidence of the impairments which might reasonably  
18 produce the symptoms or pain alleged and there is no evidence of malingering, the ALJ  
19 “may reject the claimant’s testimony about the severity of those symptoms only by  
20 providing specific, clear and convincing reasons for doing so.” Brown-Hunter, 806 F.3d  
21 at 489 (“we require the ALJ to specify which testimony she finds not credible, and then  
22 provide clear and convincing reasons, supported by evidence in the record, to support  
23 that credibility determination”); Laborin v. Berryhill, 867 F.3d 1151, 1155 (9th Cir. 2017).

1 The ALJ may consider at least the following factors when weighing the claimant's  
2 credibility: (1) his or her reputation for truthfulness; (2) inconsistencies either in the  
3 claimant's testimony or between the claimant's testimony and his or her conduct; (3) his  
4 or her daily activities; (4) his or her work record; and (5) testimony from physicians and  
5 third parties concerning the nature, severity, and effect of the symptoms of which she  
6 complains. Thomas v. Barnhart, 278 F.3d 948, 958-59 (9th Cir. 2002) (citing Light, 119  
7 F.3d at 792). "If the ALJ's credibility finding is supported by substantial evidence in the  
8 record, [the court] may not engage in second-guessing." Id. at 959 (citing Morgan v.  
9 Apfel, 169 F.3d 595, 600 (9th Cir. 1999)).

10 2. The ALJ provided Clear and Convincing Reasons Supported by  
11 Substantial Evidence

12 Having carefully reviewed the record, the Court finds that the ALJ provided  
13 specific, clear and convincing reasons for discounting Plaintiff's subjective complaints.<sup>7</sup>  
14 The ALJ found that Plaintiff's subjective complaints were not entirely consistent with  
15 Plaintiff's own statements of daily activities in the medical records and her testimony, as  
16 well as with the medical evidence of record. (AR 18-19). The ALJ noted that the  
17 assessed RFC took into account Plaintiff's complaints of limitation. Plaintiff, however,  
18 contends that the ALJ failed to take Plaintiff's complaints into consideration when  
19 assessing the RFC.

20 A review of the decision reflects that the ALJ did not "dismiss" Plaintiff's  
21 testimony and medical records concerning her pain, symptoms, and level of limitation.  
22 Rather, the ALJ stated that she had considered Plaintiff's testimony in limiting her work  
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24 <sup>7</sup> The ALJ did not make a finding of malingering in her opinion. (AR 15-22).

1 at the light exertional level, with limitations for postural activities. (AR 18).

2 Accordingly, the ALJ reduced Plaintiff's RFC of light work to "occasionally push and pull  
3 with both lower extremities; and she can occasionally perform all postural activities."  
4 (AR 18).

5 Plaintiff contends that the ALJ improperly pointed to her level of daily activity as  
6 a basis for dismissing her testimony. This is not correct. The ALJ cited to Plaintiff's  
7 statements in the record of her daily activities to show the inconsistency with her  
8 testimony at the Administrative hearing:

9 [Plaintiff] stated she could do the following activities of daily living: do  
10 errands such as going to the Post Office or grocery store without  
11 assistance, walk outside of her home for an unsure amount of time,  
12 stand for 5 minutes at a time, sit for 15 minutes as a time, drive her own  
13 car and do light housekeeping chores without assistance. (AR 275, 293-  
95). The undersigned notes that all these activities above suggest the  
claimant is more capable than she alleged and are consistent with the  
functional limitations within the residual functional capacity stated  
above.

14 (AR 19); see Thomas, 278 F.3d at 958-59 (holding that an ALJ may consider  
15 inconsistencies either in the claimant's testimony or between the claimant's testimony  
16 and his or her conduct when weighing the claimant's credibility).

17 An ALJ is permitted to consider daily living activities in his credibility analysis.  
18 See 20 C.F.R. § 404.1529(c)(3) (daily activities are a relevant factor which will be  
19 considered in evaluating symptoms); see also Bray v. Comm'r of Soc. Sec. Admin., 554  
20 F.3d 1219, 1227 (9th Cir. 2009) ("In reaching a credibility determination, an ALJ may  
21 weigh inconsistencies between the claimant's testimony and his or her conduct, daily  
22 activities, and work record, among other factors"). Daily activities may be considered to  
23 show that Plaintiff exaggerated her symptoms. See Valentine v. Astrue, 574 F.3d 685,  
24 694 (9th Cir. 2009) (ALJ properly recognized that daily activities "did not suggest

1 [claimant] could return to his old job” but “did suggest that [claimant’s] later claims  
2 about the severity of his limitations were exaggerated.”). Although Plaintiff takes issue  
3 with this, it was proper for the ALJ to have considered daily living activities in her  
4 credibility analysis. See Burch, 400 F.3d at 681.

5         The ALJ also performed a thorough review of Plaintiff’s medical record and  
6 found that it did not fully support Plaintiff’s allegations of disabling conditions. (AR 19-  
7 21). The ALJ properly considered how consistent Plaintiff’s subjective symptom  
8 statements were with this objective medical evidence. 20 C.F.R. § 404.1529(c)(2). This  
9 could not be the ALJ’s sole reason for rejecting Plaintiff’s statements about her  
10 symptoms, but it was a factor that the ALJ was permitted to consider. Id.; see also  
11 Burch, 400 F.3d at 681 (“Although lack of medical evidence cannot form the sole basis  
12 for discounting pain testimony, it is a factor that the ALJ can consider in his credibility  
13 analysis.”); Rollins v. Massanari, 261 F.3d 853, 857 (9th Cir. 2001) (while a claimant’s  
14 subjective statements about symptomology “cannot be rejected on the sole ground that  
15 it is not fully corroborated by objective medical evidence, the medical evidence is still a  
16 relevant factor”). Thus, the lack of consistency between Plaintiff’s medical records and  
17 her testimony was a proper basis for the ALJ’s discounting Plaintiff’s testimony.

1 **IV. CONCLUSION**

2 For the reasons stated above, the decision of the Social Security Commissioner is  
3 **AFFIRMED**, and the action is **DISMISSED** with prejudice. Judgment shall be entered  
4 accordingly.

5  
6 **DATE: April 29, 2021**

7  
8 /s/ Autumn D. Spaeth  
9 **THE HONORABLE AUTUMN D. SPAETH**  
10 **United States Magistrate Judge**