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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

TERESA M., ¹)	Case No. CV 20-1212-JPR
)	
Plaintiff,)	
)	MEMORANDUM DECISION AND ORDER
v.)	AFFIRMING COMMISSIONER
)	
KILOLO KIJAKAZI, Acting)	
Commissioner of Social)	
Security, ²)	
)	
Defendant.)	

I. PROCEEDINGS

Plaintiff seeks review of the Commissioner's final decision denying her applications for Social Security disability insurance ("DIB") and supplemental security income benefits ("SSI"). The matter is before the Court on the parties' Joint Stipulation, filed November 11, 2020, which the Court has taken under

¹ Plaintiff's name is partially redacted in line 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.

² Kilolo Kijakazi, who was appointed acting commissioner on July 9, 2021, is substituted in as the correct Defendant. See Fed. R. Civ. P. 25(d).

1 submission without oral argument. For the reasons discussed
2 below, the Commissioner's decision is affirmed.

3 **II. BACKGROUND**

4 Plaintiff was born in 1971. (Administrative Record ("AR")
5 154, 158.) She completed some high school and worked part time
6 as a retail sales clerk and home-care provider. (AR 41, 47-48,
7 178, 190.)

8 On January 19 and October 16, 2018, Plaintiff applied for
9 DIB and SSI, respectively, alleging that she was unable to work
10 because of a heart condition, "lung problems," hysterectomy,
11 fibromyalgia, stress, and depression. (AR 154, 158, 177.) The
12 DIB application alleged that she had been unable to work since
13 April 28, 2017, but the SSI application said January 1 of that
14 year. (AR 154, 159.) After her applications were denied (AR 72-
15 86, 89-93), she requested a hearing before an Administrative Law
16 Judge (AR 94-95). One was held on August 23, 2019, at which
17 Plaintiff, who was represented by counsel, testified, as did a
18 vocational expert. (See AR 37-51.) In a written decision issued
19 September 11, 2019, the ALJ found Plaintiff not disabled. (AR
20 17-31.) She sought Appeals Council review (AR 149-52), which was
21 denied on December 18, 2019 (AR 1-6). This action followed.

22 **III. STANDARD OF REVIEW**

23 Under 42 U.S.C. § 405(g), a district court may review the
24 Commissioner's decision to deny benefits. The ALJ's findings and
25 decision should be upheld if they are free of legal error and
26 supported by substantial evidence based on the record as a whole.
27 See Richardson v. Perales, 402 U.S. 389, 401 (1971); Parra v.
28 Astrue, 481 F.3d 742, 746 (9th Cir. 2007). Substantial evidence

1 means such evidence as a reasonable person might accept as
2 adequate to support a conclusion. Richardson, 402 U.S. at 401;
3 Lingenfelter v. Astrue, 504 F.3d 1028, 1035 (9th Cir. 2007). It
4 is "more than a mere scintilla, but less than a preponderance."
5 Lingenfelter, 504 F.3d at 1035 (citing Robbins v. Soc. Sec.
6 Admin., 466 F.3d 880, 882 (9th Cir. 2006)). "[W]hatever the
7 meaning of 'substantial' in other contexts, the threshold for
8 such evidentiary sufficiency is not high." Biestek v. Berryhill,
9 139 S. Ct. 1148, 1154 (2019). To determine whether substantial
10 evidence supports a finding, the reviewing court "must review the
11 administrative record as a whole, weighing both the evidence that
12 supports and the evidence that detracts from the Commissioner's
13 conclusion." Reddick v. Chater, 157 F.3d 715, 720 (9th Cir.
14 1998). "If the evidence can reasonably support either affirming
15 or reversing," the reviewing court "may not substitute its
16 judgment" for the Commissioner's. Id. at 720-21.

17 **IV. THE EVALUATION OF DISABILITY**

18 People are "disabled" for Social Security purposes if they
19 can't engage in any substantial gainful activity owing to a
20 physical or mental impairment that is expected to result in death
21 or has lasted, or is expected to last, for a continuous period of
22 at least 12 months. 42 U.S.C. § 423(d)(1)(A); Drouin v.
23 Sullivan, 966 F.2d 1255, 1257 (9th Cir. 1992).

24 A. The Five-Step Evaluation Process

25 An ALJ follows a five-step sequential evaluation process to
26 assess whether someone is disabled. 20 C.F.R. §§ 404.1520(a)(4),
27 416.920(a)(4); Lester v. Chater, 81 F.3d 821, 828 n.5 (9th Cir.
28 1995) (as amended Apr. 9, 1996). In the first step, the

1 Commissioner must determine whether the claimant is currently
2 engaged in substantial gainful activity; if so, the claimant is
3 not disabled and the claim must be denied. §§ 404.1520(a)(4)(i),
4 416.920(a)(4)(i).

5 If the claimant is not engaged in substantial gainful
6 activity, the second step requires the Commissioner to determine
7 whether the claimant has a "severe" impairment or combination of
8 impairments significantly limiting the claimant's ability to do
9 basic work activities; if not, a finding of not disabled is made
10 and the claim must be denied. §§ 404.1520(a)(4)(ii) & (c),
11 416.920(a)(4)(ii) & (c).

12 If the claimant has a severe impairment or combination of
13 impairments, the third step requires the Commissioner to
14 determine whether the impairment or combination of impairments
15 meets or equals an impairment in the Listing of Impairments
16 ("Listing") set forth at 20 C.F.R., part 404, subpart P, appendix
17 1; if so, disability is conclusively presumed and benefits are
18 awarded. §§ 404.1520(a)(4)(iii) & (d), 416.920(a)(4)(iii) & (d).

19 If the claimant's impairment or combination of impairments
20 does not meet or equal one in the Listing, the fourth step
21 requires the Commissioner to determine whether the claimant has
22 sufficient residual functional capacity ("RFC")³ to perform the
23 claimant's past work; if so, the claimant is not disabled and the
24

25 ³ RFC is what a claimant can do despite existing exertional
26 and nonexertional limitations. §§ 404.1545(a)(1), 416.945(a)(1);
27 see Cooper v. Sullivan, 880 F.2d 1152, 1155 n.5 (9th Cir. 1989).
28 The Commissioner assesses the claimant's RFC between steps three
and four. Laborin v. Berryhill, 867 F.3d 1151, 1153 (9th Cir.
2017) (citing § 416.920(a)(4)).

1 claim must be denied. §§ 404.1520(a)(4)(iv), 416.920(a)(4)(iv).
2 The claimant has the burden of proving inability to perform past
3 relevant work. Drouin, 966 F.2d at 1257. If the claimant meets
4 that burden, a prima facie case of disability is established.

5 Id.

6 If that happens or if the claimant has no past relevant
7 work, the Commissioner bears the burden of establishing that the
8 claimant is not disabled because the claimant can perform other
9 substantial gainful work available in the national economy, the
10 fifth and final step of the sequential analysis.

11 §§ 404.1520(a)(4)(v), 404.1560(c), 416.920(a)(4)(v), 416.960(c).

12 B. The ALJ's Application of the Five-Step Process

13 At step one, the ALJ found that Plaintiff had not engaged in
14 substantial gainful activity since April 28, 2017, the alleged
15 DIB-application onset date;⁴ he found her date last insured to be
16 December 31, 2021. (AR 19-20.) At step two, he determined that
17 she had severe impairments of fibromyalgia, rheumatoid arthritis,
18 degenerative disc disease of the lumbar spine, asthma, "chest
19 pain syndrome," obesity, and depression. (AR 20.)

20 At step three, he found that Plaintiff's impairments did not
21 meet or equal any of the impairments in the Listing. (Id.) At
22 step four, he determined that she had the RFC to perform light
23 work with the following limitations: "frequent pushing and
24 pulling with bilateral upper and lower extremities" and "overhead
25

26 ⁴ The ALJ stated that "[i]n both applications, [Plaintiff]
27 alleged disability beginning April 28, 2017." (AR 17.) But as
28 previously noted, the SSI application alleged that she became
unable to work on January 1, 2017. (AR 154, 159.)

1 reaching bilaterally"; "occasional postural activities"; no
2 "climbing ladders, ropes, and scaffolds"; no "concentrated
3 exposure to pulmonary irritants" or "extreme temperatures"; no
4 "work with unprotected heights"; and "limited to non-complex
5 routine tasks." (AR 22.) She could not perform any of her past
6 relevant work (AR 29), but she could work as a merchandise
7 marker, office helper, or information clerk, positions that
8 "exist[ed] in significant numbers in the national economy" (AR
9 30). Accordingly, he found her not disabled. (AR 30-31.)

10 **V. DISCUSSION**

11 Plaintiff alleges that the ALJ erred in assessing the
12 medical opinions, evaluating her subjective symptom statements,
13 and finding that she could perform jobs with DOT descriptions
14 that conflicted with the RFC. (See J. Stip. at 5-9, 23-32, 36-
15 41, 46-51, 57-59.) For the reasons discussed below, remand is
16 not warranted.

17 A. The ALJ Properly Evaluated the Medical Opinions

18 1. Relevant background

19 a. *Ijeoma Ijeaku*

20 On May 12, 2018, consulting psychiatrist Ijeoma Ijeaku
21 conducted a complete psychiatric evaluation of Plaintiff. (AR
22 684-88.) She complained of depression and fatigue. (AR 684.)
23 She reported that she had been well until her mother passed away,
24 in fall 2016. (Id.) She had never been admitted to a
25 psychiatric hospital. (Id.) In fact, although she had been
26 prescribed psychotropic medications by her primary-care
27 physician, she had never been evaluated by a psychiatrist or
28 therapist. (Id.)

1 During a mental-status examination, she cooperated and had
2 fair eye contact and normal tone, volume, and rate of speech.
3 (AR 686.) She reported that her mood was sad, but her affect was
4 appropriate, there was no psychomotor retardation, and she denied
5 any suicidal or homicidal plans or thoughts. (Id.) Her thought
6 process was goal directed, and she did not exhibit looseness of
7 association, thought disorganization, flight of ideas, thought
8 blocking, tangentiality, or circumstantiality. (Id.) She
9 exhibited no delusions and denied "thought broadcasting" and
10 "insertion";⁵ phobias; obsessions; "derealizations";⁶
11 depersonalization;⁷ and auditory, visual, tactile, or olfactory
12 hallucinations. (Id.) Her concentration was fair and her memory
13 good. (Id.) She was alert and oriented to date, place, and
14 person. (Id.) She was able to recall three of three objects in
15 five minutes; what she had for breakfast, lunch, and dinner; and
16 her date of birth. (Id.) She was able to spell the word "world"

18 ⁵ Thought broadcasting is the delusion that one's thoughts
19 are being disseminated for all to hear. Thought Broadcasting,
20 APA Dictionary of Psych., [https://dictionary.apa.org/
thought-broadcasting](https://dictionary.apa.org/thought-broadcasting) (last visited July 12, 2021). Thought
21 insertion is a delusion that thoughts ascribed to outside sources
22 have been forced into one's mind. Thought Insertion, APA
Dictionary of Psych., [https://dictionary.apa.org/
thought-insertion](https://dictionary.apa.org/thought-insertion) (last visited July 12, 2021).

23 ⁶ Derealization is feeling detached from one's surroundings.
24 Derealization Explained, WebMD, [https://www.webmd.com/
mental-health/mental-derealization-overview](https://www.webmd.com/mental-health/mental-derealization-overview) (last visited July
25 12, 2021).

26 ⁷ Depersonalization is feeling disconnected or detached from
27 one's body and thoughts. Mental Health and Depersonalization
Disorder, WebMD, [https://www.webmd.com/mental-health/
depersonalization-disorder-mental-health](https://www.webmd.com/mental-health/depersonalization-disorder-mental-health) (last visited July 12,
28 2021).

1 forward and backward, but she was unable to perform serial sevens
2 or threes. (Id.) Her interpretation of proverbs, her insight,
3 and her judgment were fair. (Id.) She was diagnosed with
4 "dependent disorder," not otherwise specified, and was assigned a
5 GAF score of 58.⁸ (AR 686-87.)

6 Dr. Ijeaku opined that Plaintiff was mildly limited in the
7 ability to understand, remember, and carry out simple
8 instructions. (AR 687.) She was moderately limited in the
9 ability to understand, remember, and carry out complex
10 instructions; maintain concentration, "attendance,"⁹ and
11 persistence; perform activities within a schedule and maintain
12 regular attendance; complete a normal workday or workweek without
13 interruption from psychiatric symptoms; and respond appropriately
14 to changes in a work setting. (Id.)

16 ⁸ GAF scores assess a person's overall psychological
17 functioning on a scale of 1 to 100. See Diagnostic and
18 Statistical Manual of Mental Disorders 32 (revised 4th ed. 2000).
19 A GAF score between 51 and 60 describes "moderate symptoms" or
20 any moderate difficulty in social, occupational, or school
21 functioning. Garrison v. Colvin, 759 F.3d 995, 1023 n.4 (9th
22 Cir. 2014). The Commissioner has declined to endorse GAF scores,
23 see Revised Medical Criteria for Evaluating Mental Disorders and
24 Traumatic Brain Injury, 65 Fed. Reg. 50764-65 (Aug. 21, 2000)
25 (codified at 20 C.F.R. pt. 404) (GAF score "does not have a
26 direct correlation to the severity requirements in our mental
27 disorders listings"), and the most recent edition of the DSM
28 "dropped" the GAF scale, citing its lack of conceptual clarity
and questionable psychological measurements in practice, see DSM-
V 16 (5th ed. 2013). Because GAF scores continue to be included
in claimant medical records, however, the Social Security
Administration has clarified that they are medical opinion
evidence if they come from an acceptable medical source.
Wellington v. Berryhill, 878 F.3d 867, 871 n.1 (9th Cir. 2017).

⁹ As discussed later, this was most likely a scrivener's
error and was meant to read "attention."

1 b. *Arthur Lewy*

2 Psychologist Arthur Lewy reviewed portions of Plaintiff's
3 medical records on initial determination. (AR 53-62.) He
4 observed that although she received medication therapy for
5 depression, she had "no acute mental complaints." (AR 62.) Nor
6 did her treating source have any "psych[iatric] concerns." (Id.)
7 The "available observations [were] benign," "most limitations
8 appear[ed] due to physical ailments," she claimed to pay good
9 attention, she was "independent in her" activities of daily
10 living, she had "positive relations with family," and her "social
11 skills with medical encounters [were] intact." (Id.) She was
12 observed on one occasion to be "off topic," but she "managed [her
13 face-to-face] interview . . . without difficulties," and a prior
14 neurological consultative examination noted "no concerns about
15 cognition." (Id.) Therefore, Dr. Lewy found that some of Dr.
16 Ijeaku's findings were "at odds with the rest of the records,
17 especially those suggesting reduced cognitive abilities." (Id.)
18 He further noted that "[e]ven the expressions of sadness" at the
19 consultative examination were "at odds with available . . .
20 records." (Id.) Although there was no indication of reduced
21 cognition, Dr. Lewy found that there might be "reduced cognitive
22 efficiency in the context of heightened affect, especially in the
23 context of physical discomfort." (Id.) Nevertheless, he found
24 that Plaintiff "appear[ed] to self manage adequately," exhibited
25 "no indications of needs for higher level psych interventions,"
26 and "retained" "the capacities needed for work involving basic
27 and familiar detailed tasks in a predictable setting." (Id.)

28 He opined that she had no limitations in understanding and

1 memory; was not significantly limited in the ability to carry out
2 very short and simple instructions, maintain attention and
3 concentration for extended periods, sustain an ordinary routine
4 without special supervision, make simple work-related decisions,
5 complete a normal workday and workweek without interruptions from
6 psychologically based symptoms, perform at a consistent pace
7 without an unreasonable number and length of rest periods, ask
8 simple questions or request assistance, accept instructions and
9 respond appropriately to criticism from supervisors, maintain
10 socially appropriate behavior and adhere to basic standards of
11 neatness and cleanliness, be aware of normal hazards and take
12 appropriate precautions, travel in unfamiliar places or use
13 public transportation, and set realistic goals or make plans
14 independently of others; and was moderately limited in the
15 ability to carry out detailed instructions, perform activities
16 within a schedule, maintain regular attendance, be punctual
17 within customary tolerances, interact appropriately with the
18 general public, and respond appropriately to changes in the work
19 setting. (AR 67-68.)¹⁰

20 c. *Seung Ha Lim*

21 Plaintiff saw internist Seung Ha Lim in March 2018 for an
22 internal-medicine consultation. (AR 691-95.) Plaintiff reported
23 a history of chest, neck, back, and joint pain; pulmonary
24 embolism; and fibromyalgia. (AR 691.) She complained of
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26 ¹⁰ Plaintiff claims that Dr. Lewy "found that [she] had a
27 depressive, bipolar and related disorder classified under Listing
28 12.04," citing AR 63. (See J. Stip. at 5.) That is not
accurate. AR 63 says merely that that Listing was "considered."

1 shortness of breath but denied coughing up blood. (Id.) An
2 examination revealed Jamar dynamometer grip-strength test results
3 of 55 pounds of force in the right (dominant) hand and 20 in the
4 left.¹¹ (AR 693.) Otherwise her strength was 5/5 without focal
5 motor deficits. (AR 694.) She was well developed, well
6 nourished, and in no acute distress; had a slow gait; and
7 complained of back pain. (AR 693) Dr. Lim noted normal range of
8 neck motion, but Plaintiff exhibited pain on motion. (Id.) Her
9 lungs were "clear to auscultation"¹² bilaterally, and there was
10 normal "excursion with respirations."¹³ (Id.) Her spine
11 curvature was normal, but she had pain on motion, paravertebral
12 tenderness, decreased range of motion of the back, and multiple
13 points that were tender to palpation. (AR 694.) She had pain on
14 motion of the knees and wrists but normal range of motion. (Id.)
15 The range of motion of the rest of the joints of the upper and
16 lower extremities was within normal limits bilaterally. (Id.)
17 Her sensation was grossly intact to soft touch throughout the

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19 ¹¹ A "normal" grip strength for a woman between 45 and 49
20 years old, as was Plaintiff (AR 154, 158), is between 18.6 and
21 32.4 kilograms, or between 41.01 and 71.43 pounds. See Grip
22 Strength Ratings for Females, Topendsports, [https://](https://www.topendsports.com/testing/norms/handgrip.htm)
23 www.topendsports.com/testing/norms/handgrip.htm (last visited
24 July 12, 2021); Convert Kilograms to Pounds, Calculateme,
25 <https://www.calculateme.com/weight/kilograms/to-pounds/> (last
26 visited July 12, 2021).

27 ¹² Lung auscultation is listening to the lungs, usually with
28 a stethoscope, during breathing. Breath Sounds, MedlinePlus,
<https://medlineplus.gov/ency/article/007535.htm> (last visited
July 12, 2021).

¹³ Diaphragmatic excursion is the movement of the diaphragm
during exhalation and inhalation. Diaphragmatic Excursion, Free
Dictionary, [https://medical-dictionary.thefreedictionary.com/](https://medical-dictionary.thefreedictionary.com/diaphragmatic+excursion)
[diaphragmatic+excursion](https://medical-dictionary.thefreedictionary.com/diaphragmatic+excursion) (last visited July 12, 2021).

1 upper and lower extremities bilaterally. (Id.) Her deep-tendon
2 reflexes were 2/2 and symmetrical throughout. (Id.)

3 Dr. Lim assessed her with a history of chest pain, pulmonary
4 embolism, fibromyalgia, neck and back pain, and generalized joint
5 pain. (Id.) Dr. Lim opined that she was restricted to standing
6 and walking "about six hours" and sitting six hours in an eight-
7 hour workday; lifting or carrying 20 pounds occasionally and 10
8 pounds frequently; bilateral pushing, pulling, and overhead
9 reaching frequently; and climbing, crouching, stooping, crawling,
10 and kneeling occasionally. (AR 695.)

11 d. *E. Christian*

12 Some of Plaintiff's medical records were evaluated on June
13 4, 2018, by state-agency reviewer Dr. E. Christian, who used a
14 medical specialty code of 19 (AR 71), indicating internal
15 medicine, see Soc. Sec. Admin., Program Operations Manual System
16 (POMS) DI 24501.004 (May 5, 2015), [https://secure.ssa.gov/apps10/
17 poms.nsf/lrx/0424501004](https://secure.ssa.gov/apps10/poms.nsf/lrx/0424501004). The doctor opined that Plaintiff had
18 degenerative disc disease, chronic pulmonary heart disease, and
19 asthma (AR 61) and had the RFC to perform light work with some
20 additional limitations (AR 64-66). She could stand or walk about
21 six hours in an eight-hour workday; sit for about six hours in an
22 eight-hour workday; occasionally climb ramps, stairs, ladders,
23 ropes, and scaffolds; and occasionally balance, stoop, kneel,
24 crouch, and crawl. (Id.) She was prohibited from concentrated
25 exposure to extreme cold. (AR 66.)

26 e. *James Song*

27 On May 24, 2019, internist James Song completed a "Residual
28 Functional Capacity Assessment Form." (AR 860.) He stated that

1 he had treated Plaintiff every month for the past two years.
2 (Id.) He diagnosed her with high blood pressure, rheumatoid
3 arthritis, fibromyalgia, pulmonary embolism, and "abdormal [sic]
4 . . . coronary arteries." (Id.) He opined that she could stand
5 or walk one hour in an eight-hour day and sit for four hours in
6 an eight-hour day. (Id.) She had unspecified limitations in
7 pushing, pulling, stooping, and bending and would need to be
8 absent from work more than four days a month. (Id.)

9 2. Applicable law

10 For claims like Plaintiff's filed on or after March 27,
11 2017, the rules in §§ 404.1520c and 416.920c, governing
12 evaluation of medical opinions, apply. (AR 154, 177); see
13 §§ 404.1520c, 416.920c (evaluating opinion evidence for claims
14 filed on or after Mar. 27, 2017). The new regulations provide
15 that the Social Security Administration "will not defer or give
16 any specific evidentiary weight, including controlling weight, to
17 any medical opinion(s) or prior administrative medical
18 finding(s), including those from your medical sources." §§
19 404.1520c(a), 416.920c(a). Thus, the new regulations eliminate
20 what was customarily known as the treating-source or treating-
21 physician rule.¹⁴ See §§ 404.1520c, 416.920c.

22
23 ¹⁴ The relationship between the medical source and the
24 plaintiff remains a factor in considering a medical opinion,
25 however. See §§ 404.1520c(c)(3) (listing "Relationship with the
26 claimant" as factor), 416.920c(c)(3) (same). Thus, the new
27 regulations still acknowledge that a "medical source may have a
28 better understanding of [a plaintiff's] impairment(s) if he or
she examines [plaintiff] than if the medical source only reviews
evidence in [a plaintiff's] folder." §§ 404.1520c(c)(3)(v),
416.920c(c)(3)(v). Accordingly, although the new regulatory
(continued...)

1 The revised rules require ALJs to evaluate the
2 "persuasiveness" of medical opinions according to the following
3 factors: supportability; consistency; relationship with the
4 plaintiff;¹⁵ specialization; and other factors, such as the
5 medical source's familiarity with evidence in the record and with
6 disability-program requirements. See §§ 404.1520c(c),
7 416.920c(c). The most important of these factors are
8 supportability and consistency. §§ 404.1520c(b) (2),
9 416.920c(b) (2). The supportability factor recognizes that "[t]he
10 more relevant the objective medical evidence and supporting
11 explanations presented by a medical source are to support [the
12 source's] medical opinion(s) . . . the more persuasive [they]
13 will be." §§ 404.1520c(c) (1), 416.920c(c) (1). Similarly,
14 consistency is the extent to which an opinion is consistent with
15 the "evidence from other medical sources and nonmedical sources."
16 §§ 404.1520c(c) (2), 416.920c(c) (2). The ALJ should explain how
17 he considered the supportability and consistency factors in
18 assessing a medical opinion and "may, but [is] not required to,
19 explain how [he] considered the [other] factors . . . as
20 appropriate." §§ 404.1520c(b) (2), 416.920c(b) (2).

21 The ALJ may discount a physician's opinion regardless of
22

23 ¹⁴ (...continued)
24 scheme does not give "controlling weight" to any medical opinion,
25 neither does it place all medical opinions on an equal footing,
as Defendant suggests. (J. Stip. at 20.)

26 ¹⁵ The relationship-with-plaintiff factor combines
27 consideration of length of the treatment relationship, frequency
28 of examinations, purpose of the treatment relationship, extent of
the treatment relationship, and existence of an examining
relationship. §§ 404.1520c(c) (3), 416.920c(c) (3).

1 whether it is contradicted. Magallanes v. Bowen, 881 F.2d 747,
2 751 (9th Cir. 1989); see also Carmickle v. Comm’r, Soc. Sec.
3 Admin., 533 F.3d 1155, 1164 (9th Cir. 2008). The Ninth Circuit
4 has required that when a doctor’s opinion is not contradicted by
5 other medical-opinion evidence, it may be rejected only for a
6 “clear and convincing” reason. Magallanes, 881 F.2d at 751;
7 Carmickle, 533 F.3d at 1164 (citing Lester, 81 F.3d at 830-31).
8 When it is contradicted, the ALJ need provide only a “specific
9 and legitimate” reason for discounting it. Carmickle, 533 F.3d
10 at 1164 (citing Lester, 81 F.3d at 830-31).¹⁶

11 3. The ALJ’s assessment of the doctors’ opinions

12 The ALJ found Dr. Ijeaku’s and Dr. Lewy’s opinions “somewhat
13 persuasive.” (AR 28.) He found persuasive Dr. Ijeaku’s opinion
14 that Plaintiff had moderate limitations in the ability to
15 understand, remember, and carry out complex instructions and the
16 ability to maintain concentration, “attendance,” and persistence
17 and Dr. Lewy’s opinion that she had moderate limitations in the
18 ability to carry out detailed instructions. (Id.) He found
19 “unpersuasive” Dr. Ijeaku’s opinion that Plaintiff had moderate
20

21 ¹⁶ Defendant argues that the Court should no longer apply
22 the “clear and convincing” and “specific and legitimate”
23 standards in light of the new regulations. (J. Stip. at 20-21.)
24 The Ninth Circuit has not yet indicated whether it will continue
25 to draw such distinctions in analyzing medical opinions. See
26 Allen T. v. Saul, No. EDCV 19-1066-KS, 2020 WL 3510871, at *3
27 (C.D. Cal. June 29, 2020). As Defendant acknowledges, however,
28 it continued to apply these standards even after the Commissioner
implemented other new regulations concerning how medical opinions
were to be evaluated. (See J. Stip. at 20 (citing
§§ 404.1527(c)(2), 416.927(c)(2))); Lester, 81 F.3d at 830. The
Court need not resolve this question here because as explained
below, the ALJ properly applied the new regulations and his
reasons were clear and convincing.

1 limitations in the ability to perform activities within a
2 schedule and maintain regular attendance, complete a normal
3 workday without interruption, and appropriately respond to
4 changes in a work setting and Dr. Lewy's opinion that she had
5 moderate limitations in the ability to perform activities within
6 a schedule, interact appropriately with the general public, and
7 respond appropriately to changes in the work setting. (Id.) The
8 ALJ noted that Plaintiff testified that she was able to attend
9 church weekly, handled changes in routine "fine," and finished
10 what she started. (AR 28-29 (citing AR 46, 221-22, 235-36).)

11 He found Dr. Lim's and Dr. Christian's opinions "persuasive"
12 and noted their support in the record, which did not show
13 symptoms, objective medical abnormalities, diagnoses, or
14 treatment consistent with the severity of symptoms Plaintiff
15 alleged. (AR 27.) He also noted that her treatment plans
16 consisted only of pain management with medication, and her
17 activities of daily living indicated that she was more functional
18 than alleged. (AR 27-28.)

19 The ALJ found Dr. Song's opinions "unpersuasive" because
20 they were "overly restrictive" and "inconsistent with the
21 objective findings" of Drs. Lim and Christian and with
22 Plaintiff's "own statements that she [could] mop, sweep, and do
23 dishes." (AR 28.)

24 4. Analysis

25 Plaintiff asserts that the ALJ erred in assessing the
26 medical opinions of Drs. Ijeaku, Lewy, Lim, Christian, and Song.
27 (See J. Stip. at 5-9, 23-32, 36-38.) But the ALJ correctly used
28 the "persuasive" terminology of the new regulations throughout

1 his decision, properly discussed the supportability and
2 consistency of the opinions in the context of the other evidence,
3 and noted that he was not providing “articulation about the
4 evidence that [was] inherently neither valuable nor persuasive in
5 accordance with 20 CFR 404.1520b(c) and 416.920b(c),” the new
6 regulations explaining how the Commissioner considers medical-
7 opinion evidence. (AR 28-29); see §§ 404.1520b(c), 416.920b(c).
8 There was no error.

9 a. *Dr. Ijeaku*

10 Plaintiff argues that although the ALJ found persuasive Dr.
11 Ijeaku’s opinion that she has moderate limitations in the ability
12 to maintain “concentration, attendance, and persistence,” the RFC
13 failed to capture those limitations. (J. Stip. at 7-8.) To
14 start, the ALJ specifically found unpersuasive Dr. Ijeaku’s
15 opinion that Plaintiff’s ability to maintain regular attendance
16 was moderately limited. (AR 28.) The earlier reference to
17 “attendance” with “concentration” and “persistence” likely was a
18 scrivener’s error and should have read “attention.” In any
19 event, the ALJ reasonably found the attendance limitation
20 unpersuasive because it wasn’t supported by or consistent with
21 other record evidence, as explained below.

22 And the ALJ adequately accounted for Plaintiff’s moderate
23 limitations in concentration and persistence by limiting her to
24 noncomplex, routine tasks. (AR 22, 29.) The Ninth Circuit has
25 repeatedly held that a “moderate” limitation in areas like
26 concentration and persistence translates into the type of RFC the
27 ALJ assessed here. See, e.g., Shoemaker v. Berryhill, 710 F.
28 App’x 750, 751 (9th Cir. 2018) (ALJ’s translation of moderate

1 difficulties with concentration, persistence, and pace into RFC
2 to perform "simple, routine tasks" was rational interpretation of
3 plaintiff's self-reported limited capacity); Turner v. Berryhill,
4 705 F. App'x 495, 498 (9th Cir. 2017) (RFC limiting plaintiff to
5 simple, repetitive tasks was consistent with opinion that
6 plaintiff had moderate difficulties in concentration,
7 persistence, and pace); Stubbs-Danielson v. Astrue, 539 F.3d
8 1169, 1173-74 (9th Cir. 2008) (ALJ reasonably translated finding
9 that plaintiff was "moderately limited" in several mental-
10 functioning areas into RFC to perform "simple, routine,
11 repetitive" work).

12 The ALJ reasonably assessed as unpersuasive Dr. Ijeaku's
13 opinions that Plaintiff had moderate limitations in the ability
14 to perform activities within a schedule, maintain regular
15 attendance, complete a normal workday without interruption, and
16 respond appropriately to changes in a work setting. (See AR 28.)
17 The supportability and consistency factors weigh against these
18 opinions because they were inconsistent with Plaintiff's
19 testimony that she was able to attend church weekly and her
20 statements that she handled changes in routine "fine" and
21 finished what she started, as the ALJ noted. (AR 28-29 (citing
22 AR 221-22, 235-36).) Plaintiff argues that her statement that
23 she handles change "fine" assumed that she had experienced
24 changes in her routine since ceasing work, a "fact not in
25 evidence." (J. Stip. at 8.) But she made the statement without
26 qualification on February 12, 2018 (AR 222, 236), after she had
27 stopped working. And although she stated that she was good at
28 paying attention and following instructions when she was not

1 taking her medication, her statement that she finished what she
2 started was not so qualified.¹⁷ (AR 221, 235.) The ALJ properly
3 considered the most important factors, supportability and
4 consistency, in evaluating Dr. Ijeaku's opinion.
5 §§ 404.1520c(b)(2), 416.920c(b)(2). There was no error.

6 b. *Dr. Lewy*

7 Plaintiff did not include Dr. Lewy in her statement of
8 disputed issues but discussed his opinions with Dr. Ijeaku's.
9 The ALJ found unpersuasive Dr. Lewy's opinions that Plaintiff had
10 moderate limitations in the ability to perform activities within
11 a schedule, interact appropriately with the general public, and
12 respond appropriately to changes in the work setting. (AR 28
13 (citing AR 68).) To the extent Plaintiff is challenging this
14 finding, there was no error. As with Dr. Ijeaku, the ALJ
15 correctly noted Plaintiff's testimony that she was able to attend
16 church weekly and statements that she handled changes in routine
17 "fine" and finished what she started (AR 28-29 (citing AR 221-22,
18 235-36)), all of which were inconsistent with the opinions.
19 Therefore, the ALJ found Dr. Lewy's assessments "unpersuasive."
20 (AR 28.) Plaintiff has unearthed no error in the ALJ's
21 consideration of these opinions.

22 c. *Drs. Lim and Christian*

23 Plaintiff's only argument concerning the ALJ's assessment of
24

25 ¹⁷ Plaintiff claims that "Dr. Ijeaku did not assume a
26 pattern of activity different that [sic] that found by the ALJ to
27 be true" and thus the ALJ erred in rejecting some of the doctor's
28 assessed limitations. (J. Stip. at 9.) But in fact, Dr. Ijeaku
"recorded daily activities as very minimal" (*id.* at 8 (citing AR
685)), whereas the ALJ found that Plaintiff engaged in a wide
range of daily activities, as discussed *infra* in section V.B.4.b.

1 the opinions of Drs. Lim and Christian is that he failed to
2 expressly state in the RFC that Plaintiff could "stand/walk not
3 more than six hours in an eight-hour day." (J. Stip. at 30-31.)
4 She acknowledges that SSR 83-10, 1983 WL 31251 (Jan. 1, 1983),
5 governing the capability to do other work, contains a standing or
6 walking limitation. (J. Stip. at 30.) That ruling provides that
7 the full range of light work requires standing or
8 walking, off and on, for a total of approximately 6 hours
9 of an 8-hour workday. Sitting may occur intermittently
10 during the remaining time.

11 SSR 83-10, 1983 WL 31251, at *6. But she argues that the ALJ
12 should have specifically included a standing and walking
13 limitation in his questioning of the VE and in the RFC because
14 the regulatory and DOT definitions of light work do "not impose a
15 limitation in standing/walking or necessarily permit the ability
16 to sit for at least two hours in an eight-hour day." (J. Stip.
17 at 30.)

18 Appendix C of the DOT provides that a job is "light" "when
19 it requires walking or standing to a significant degree." 1991
20 WL 688702 (Jan. 1, 2016). The regulations define light work as
21 requiring "a good deal of walking or standing." §§ 404.1567(b),
22 416.967(b).

23 At the hearing, the ALJ asked the VE to assume a
24 hypothetical worker who "would be limited to light w[o]rk as
25 decided in the regulations," with some additional limitations.¹⁸

26
27 ¹⁸ Notably, although Plaintiff's attorney posed a
28 hypothetical question to the VE assuming a person who could sit
(continued...)

1 (AR 48.) The VE answered that this hypothetical person could
2 work as a merchandise marker, office helper, or information
3 clerk. (AR 48-49.) The ALJ was not required to spell out the
4 standing and walking limit because it was implicit in "light
5 work." See Terry v. Saul, 998 F.3d 1010, 1013 (9th Cir. 2021)
6 (ALJ's hypothetical to VE was not incomplete because VE would
7 have understood ALJ's use of "medium work" to imply SSR 83-10's
8 six-hour standing and walking limitation); Mitzi D. v. Saul, No.
9 SA CV 18-01065-DFM, 2019 WL 8112507, at *2 (C.D. Cal. Dec. 13,
10 2019) ("Given that SSR 83-10 has been in play for over thirty
11 years, there is no reason to think the VE understood light work
12 to encompass anything other than approximately six hours of
13 standing or walking.").¹⁹

14 Plaintiff also appears to argue that the intermittent-
15 sitting language of SSR 83-10 implies that some standing must
16

17 ¹⁸ (...continued)
18 four hours and stand one hour in an eight-hour day (AR 50), the
19 attorney did not raise any objection to the ALJ's hypothetical or
20 seek to clarify the meaning of light work when the ALJ framed the
hypothetical (see AR 48-49).

21 ¹⁹ Citing Kisor v. Wilkie, 139 S. Ct. 2400 (2019), Plaintiff
22 argues that the DOT is "not a product of the Commissioner" and
23 that the agency cannot demand deference to its interpretation of
24 it. (J. Stip. at 30.) But Kisor did not reject the traditional
25 deference given to agency interpretations. Instead, it held that
26 such "deference retains an important role in construing agency
27 regulations." Kisor, 139 S. Ct. at 2408. And as noted, even if
28 SSR 83-10 were not entitled to deference, the VE would have
understood the ALJ's use of the term "light w[o]rk as decided in
the regulations" to imply SSR-83-10's standing and walking
limitation. The VE testified based on that understanding that
Plaintiff could perform work existing in significant numbers in
the national economy. (AR 48-49.) Therefore, the ALJ's finding
was supported by substantial evidence.

1 occur in the remaining two hours of the workday. (J. Stip. at
2 30.) Although the language of SSR 83-10 is not as clear as one
3 would hope, this interpretation is incorrect. Numerous courts have
4 interpreted SSR 83-10 to entail the ability to stand and walk for a
5 total of six hours, not more. See, e.g., Lawson v. Saul, 3:19-cv-
6 00045-W-JLB, 2020 WL 6055148, at *3-4 (S.D. Cal. Oct. 13, 2020)
7 (rejecting argument that language in SSR 83-10 that "sitting may
8 occur intermittently during the remaining time" implies person may
9 be required to stand for two remaining hours); James T. v. Saul,
10 No. 2:18-cv-08794-KES, 2019 WL 3017755, at *2 (C.D. Cal. July 10,
11 2019) ("Since [SSR 83-10 was published], ALJs and VEs . . . have
12 understood medium work as requiring the ability to stand or walk
13 for up to 6 hours."). Tellingly, Plaintiff does not cite a
14 single case to support her view.

15 Contrary to Plaintiff's argument, limiting standing or
16 walking to six hours a workday is not inconsistent with light
17 work. The ALJ therefore did not err in finding persuasive Drs.
18 Lim's and Christian's opinions.

19 d. *Dr. Song*

20 The ALJ correctly found Dr. Song's opinion unpersuasive. To
21 start, the opined limitations were "overly restrictive" and
22 inconsistent with the objective medical evidence, as the ALJ
23 noted. (AR 28.) Although Plaintiff exhibited some limited range
24 of motion and slow gait, Dr. Lim observed normal muscle tone,
25 sensation, and reflexes and no signs of radiculopathy. (AR 693-
26 94.) And strength was 5/5 without focal motor deficits other
27 than in the nondominant hand. (Id.) Dr. Lim noted that
28 Plaintiff did "not require the use of assistive devices for

1 ambulation." (AR 694.) Both Dr. Lim and Dr. Christian opined
2 that she could perform a range of light work, consistent with the
3 RFC. (AR 64-66, 695.) And Dr. Song's own examination of
4 Plaintiff was "grossly normal aside from numbness to toes," as
5 the ALJ noted. (AR 24 (citing AR 628-29)); see Davis v.
6 Commissioner Soc. Sec. Admin., 420 F. App'x 763, 764 (9th Cir.
7 2011) (ALJ's finding that some of treating doctors' opinions
8 contradicted doctors' own treatment notes was specific and
9 legitimate reason for giving opinions little weight). Therefore,
10 the ALJ properly weighed the supportability and consistency
11 factors in finding Dr. Song's opinion unpersuasive. (AR 28.)

12 Plaintiff correctly notes that the record documents gait
13 issues in the latter part of 2018 and that in August 2019, one
14 month before the ALJ's decision, she received a walker for
15 assistance while hospitalized for an exacerbation of asthma. (J.
16 Stip. at 31; see AR 709-11, 868, 871-72, 874, 879.) But at
17 Plaintiff's hearing just a few weeks later, on August 23, there
18 was no mention of an assistive device for ambulation (see AR 37-
19 51) even though she was questioned about the brace she was
20 wearing on her right hand (AR 43). And she testified that she
21 mopped, swept, and washed dishes and clothes, which would be
22 difficult if not impossible to do while using a walker. (AR 43-
23 45.) Although as Plaintiff notes (J. Stip. at 32), she testified
24 that she experienced some pain when doing those activities, she
25 "still [did] it" and just "ha[d] to do it . . . slowly" (AR 44).
26 Those activities were thus inconsistent with Dr. Song's opinion
27 that she required a cane or walker, as the ALJ found. (AR 28.)
28 At most, it appears that her gait issues improved and did not

1 meet the duration requirement. "Unless [the] impairment is
2 expected to result in death, it must have lasted or must be
3 expected to last for a continuous period of at least 12 months."
4 §§ 404.1509, 416.909. Accordingly, the ALJ did not err in
5 finding Dr. Song's opinion unpersuasive.

6 The ALJ properly evaluated the medical opinions.

7 B. The ALJ Properly Assessed Plaintiff's Symptom
8 Statements

9 1. Applicable law

10 An ALJ's assessment of a claimant's allegations concerning
11 the severity of her symptoms is entitled to "great weight."
12 Weetman v. Sullivan, 877 F.2d 20, 22 (9th Cir. 1989) (as amended)
13 (citation omitted); Nyman v. Heckler, 779 F.2d 528, 531 (9th Cir.
14 1985) (as amended Feb. 24, 1986). "[T]he ALJ is not 'required to
15 believe every allegation of disabling pain, or else disability
16 benefits would be available for the asking, a result plainly
17 contrary to 42 U.S.C. § 423(d)(5)(A).'" Molina v. Astrue, 674
18 F.3d 1104, 1112 (9th Cir. 2012) (quoting Fair v. Bowen, 885 F.2d
19 597, 603 (9th Cir. 1989)).

20 In evaluating a claimant's subjective symptom testimony, the
21 ALJ engages in a two-step analysis. See Lingenfelter, 504 F.3d
22 at 1035-36; see also SSR 16-3p, 2016 WL 1119029, at *3 (Mar. 16,
23 2016). "First, the ALJ must determine whether the claimant has
24 presented objective medical evidence of an underlying impairment
25 '[that] could reasonably be expected to produce the pain or other
26 symptoms alleged.'" Lingenfelter, 504 F.3d at 1036 (quoting
27 Bunnell v. Sullivan, 947 F.2d 341, 344 (9th Cir. 1991) (en
28 banc)). If such objective medical evidence exists, the ALJ may

1 not reject a claimant's testimony "simply because there is no
2 showing that the impairment can reasonably produce the degree of
3 symptom alleged." Id. (emphasis in original) (quoting Smolen v.
4 Chater, 80 F.3d 1273, 1282 (9th Cir. 1996)).

5 If the claimant meets the first test, the ALJ may discount
6 the claimant's subjective symptom testimony only if he makes
7 specific findings that support the conclusion. See Berry v.
8 Astrue, 622 F.3d 1228, 1234 (9th Cir. 2010). Absent a finding or
9 affirmative evidence of malingering, the ALJ must provide a
10 "clear and convincing" reason for rejecting the claimant's
11 testimony. Brown-Hunter v. Colvin, 806 F.3d 487, 493 (9th Cir.
12 2015) (as amended) (citing Lingenfelter, 504 F.3d at 1036);
13 Treichler v. Comm'r of Soc. Sec. Admin., 775 F.3d 1090, 1102 (9th
14 Cir. 2014). The ALJ may consider, among other factors, the
15 claimant's (1) reputation for truthfulness, prior inconsistent
16 statements, and other testimony that appears less than candid;
17 (2) unexplained or inadequately explained failure to seek
18 treatment or to follow a prescribed course of treatment; (3)
19 daily activities; (4) work record; and (5) physicians' and third
20 parties' statements. Rounds v. Comm'r Soc. Sec. Admin., 807 F.3d
21 996, 1006 (9th Cir. 2015) (as amended); Thomas v. Barnhart, 278
22 F.3d 947, 958-59 (9th Cir. 2002). If the ALJ's evaluation of a
23 plaintiff's alleged symptoms is supported by substantial evidence
24 in the record, the reviewing court "may not engage in second-
25 guessing." Thomas, 278 F.3d at 959.

26 2. Plaintiff's symptom statements and testimony

27 In her January 26, 2018 Disability Report, Plaintiff alleged
28 that her ability to work was limited by a heart condition, lung

1 problems, a hysterectomy, fibromyalgia, stress, and depression.
2 (AR 177; Exs. Index, ECF No. 18-7.) In her February 12, 2018
3 Function Report, she alleged that she was "[c]onstantly in pain,"
4 was "always tired [sic] and sleepy," and had chest pain and
5 "severe" body pain. (AR 216.) She reported that she made
6 breakfast for her son, went to doctor's appointments, cleaned her
7 house four days a week, and did laundry and ironing two days a
8 week. (AR 217-18.) She shopped for groceries once a week and
9 for clothing once a month. (AR 219.) She listed her hobbies as
10 walking and running and said she did them "every day" but also
11 stated that she could walk "no more than a block" and could not
12 run. (AR 220.) In response to another question, moreover, she
13 stated that she could walk two blocks before needing to rest for
14 30 minutes. (AR 221.) She stated that her back hurt and her
15 legs got numb if she stood for a "long period of time," and she
16 experienced shortness of breath and dizziness while walking and
17 climbing stairs. (Id.) She rated her ability to pay attention
18 and follow written and spoken instructions as "good" without her
19 medication, which made her sleepy. (Id.)

20 At the August 23, 2019 hearing, Plaintiff testified that she
21 stopped working in 2016 because she developed shortness of
22 breath, chest pain, weakness in her left side, and "chronic pain"
23 "[a]ll over [her] body." (AR 41-42.) She testified that she had
24 fibromyalgia and depression. (AR 42.) She had a machine at home
25 for "breathing treatments every two hours." (Id.) The
26 depression made her "want to die." (Id.) Her medications made
27 her "tired and very shaky." (Id.) She testified that she had
28 difficulty standing for a long time, could sit for one hour

1 before starting to feel dizzy, could lift 10 pounds, and had
2 trouble focusing on a "video or anything like that." (AR 43-44.)
3 She could mop, sweep, and wash dishes with breaks after 20 or 30
4 minutes. (AR 44.) She could not cook because of her "hand" and
5 being "shaky." (Id.) She slept for two hours after taking her
6 medication. (AR 45.) She drove her son to school and attended
7 church every Sunday. (AR 46.)

8 3. The ALJ's decision

9 The ALJ reviewed Plaintiff's claimed limitations and found
10 that her "medically determinable impairments could reasonably be
11 expected to cause some symptoms; however, [her] statements
12 concerning the intensity, persistence and limiting effects of
13 these symptoms [were] not entirely consistent with the medical
14 evidence and other evidence in the record." (AR 24.) The ALJ
15 discounted Plaintiff's subjective symptom statements because they
16 were inconsistent with the objective medical evidence (AR 24-27)
17 and her daily activities (AR 25-26) and because her "mostly
18 conservative treatment" effectively controlled her symptoms (AR
19 25).

20 4. Analysis

21 Plaintiff asserts that the ALJ improperly assessed her
22 subjective symptom statements. (J. Stip. at 38-41, 46-47.) For
23 the reasons discussed below, the ALJ did not err.

24 a. *Medical and other evidence*

25 To start, the ALJ properly concluded that Plaintiff's
26 subjective symptom statements were inconsistent with the
27 objective medical evidence in the record. Morgan v. Comm'r of
28 Soc. Sec. Admin., 169 F.3d 595, 600 (9th Cir. 1999) (finding

1 "conflict" with "objective medical evidence in the record" to be
2 "specific and substantial reason[]" undermining plaintiff's
3 allegations). For instance, the ALJ noted that although she
4 sought treatment for asthma and chest pain, an August 2017 chest
5 x-ray revealed normal vascularity and clear lung fields
6 bilaterally, her cardiac and mediastinal silhouettes²⁰ were
7 within normal limits, the bony thorax appeared unremarkable, and
8 she was assessed with "no acute cardiopulmonary disease." (AR 25
9 (citing AR 483).) Moreover, despite presenting with "recurrent
10 chest pain symptoms" in January 2018, a physical examination
11 revealed normal findings, including regular cardiovascular rate
12 and rhythm and clear lungs. (AR 26 (citing AR 575).)

13 Similarly, the ALJ correctly noted that an echocardiogram
14 report and exercise stress report from April 2017 revealed mostly
15 normal findings. (Id. (citing AR 588-89).) There was trace
16 mitral regurgitation,²¹ mild tricuspid regurgitation,²² and
17

18 ²⁰ A cardiac silhouette is an outline of the heart as seen
19 on frontal and lateral chest radiographs. Cardiac Silhouette,
20 Radiopaedia, <https://radiopaedia.org/articles/cardiac-silhouette>
21 (last visited July 12, 2021). Its size and shape provide useful
clues for underlying disease. Id.

22 ²¹ Mitral regurgitation occurs when the heart's mitral valve
23 won't close tightly, letting blood flow backward. Mitral Valve
24 Regurgitation, Mayo Clinic, [https://www.mayoclinic.org/
diseases-conditions/mitral-valve-regurgitation/symptoms-causes/
syc-20350178](https://www.mayoclinic.org/diseases-conditions/mitral-valve-regurgitation/symptoms-causes/syc-20350178) (last visited July 12, 2021).

25 ²² Tricuspid regurgitation is a failure of the valve between
26 the two right heart chambers to close properly, allowing blood to
27 flow back into the heart's upper right chamber. Tricuspid Valve
28 Regurgitation, Mayo Clinic, [https://www.mayoclinic.org/
diseases-conditions/tricuspid-valve-regurgitation/
symptoms-causes/syc-20350168](https://www.mayoclinic.org/diseases-conditions/tricuspid-valve-regurgitation/symptoms-causes/syc-20350168) (last visited July 12, 2021).

1 abnormal retrograde flow²³ seen parallel to the pulmonary artery.
2 (AR 588.) Although there was hyperdynamic left ventricular
3 contractility²⁴ with an ejection fraction²⁵ of 75 percent, this
4 pattern was normal for Plaintiff's age. (Id.) Further, the left
5 and right ventricle and atrium were normal in size; the right
6 ventricle and left and right atrium were normal in function; and
7 there was no evidence of aortic stenosis²⁶ or regurgitation,
8 pulmonic regurgitation,²⁷ pericardial effusion,²⁸ or myocardial

10 ²³ Retrograde flow is the flow of fluid in a direction
11 opposite to that considered normal. Retrograde Flow, Free
12 Dictionary, [https://medical-dictionary.thefreedictionary.com/
retrograde+flow](https://medical-dictionary.thefreedictionary.com/retrograde+flow) (last visited July 12, 2021).

13 ²⁴ Hyperdynamic contractility refers to vigorous tachycardia
14 and cardiac activity, with left ventricular walls close to
15 touching when the heart muscle contracts. Tips & Tricks: The Big
16 Squeeze – Cardiac Contractility and Right Ventricular Strain
17 Assessment, Am. Coll. of Emergency Physicians, [https://
www.acep.org/how-we-serve/sections/emergency-ultrasound/news/
18 august-2016/tips-amp-tricks-the-big-squeeze---cardiac-
19 contraction-ability-and-right-ventricular-strain-assessment/](https://www.acep.org/how-we-serve/sections/emergency-ultrasound/news/august-2016/tips-amp-tricks-the-big-squeeze---cardiac-contraction-ability-and-right-ventricular-strain-assessment/) (last
20 visited July 12, 2021).

21 ²⁵ Ejection fraction measures the percentage of blood
22 leaving the heart each time it contracts. Ejection Fraction:
23 What Does It Measure?, Mayo Clinic, [https://www.mayoclinic.org/
24 ejection-fraction/expert-answers/faq-20058286](https://www.mayoclinic.org/ejection-fraction/expert-answers/faq-20058286) (last visited July
25 12, 2021). A normal ejection fraction is about 50 to 75 percent.
Id.

26 ²⁶ Aortic stenosis is a narrow aortic valve opening. Aortic
27 Stenosis Overview, Am. Heart Ass'n, [https://www.heart.org/en/
28 health-topics/heart-valve-problems-and-disease/
heart-valve-problems-and-causes/problem-aortic-valve-stenosis](https://www.heart.org/en/health-topics/heart-valve-problems-and-disease/heart-valve-problems-and-causes/problem-aortic-valve-stenosis)
(last visited July 12, 2021).

29 ²⁷ Pulmonic regurgitation is incompetency of the pulmonic
30 valve, causing blood flow from the pulmonary artery into the
31 right ventricle when the heart muscle relaxes. Pulmonic
32 Regurgitation, Merck Manual Pro. Version, <https://>

(continued...)

1 ischemia.²⁹ (Id.) Plaintiff exhibited atypical left arm and leg
2 numbness during the exercise stress test, but the results were
3 otherwise normal. (AR 589.)

4 And despite Plaintiff's allegations of disabling pain, the
5 ALJ properly found that many of her physical-examination findings
6 were "grossly normal." (AR 24.) In April 2017, she saw
7 internist Song for "persistent generalized pain." (AR 628.)
8 Examination revealed "numbness to toes" but otherwise normal
9 findings. (AR 628-29.)

10 In October 2017, Plaintiff saw Dr. Gerald Y. Ho³⁰ for lower-
11 back pain, dyspnea, and weakness. (AR 529.) On examination,
12 Plaintiff was well developed and in no acute distress. (AR 530.)
13 She had tenderness to palpation but no deformities or
14 abnormalities of the fingers, hands, wrists, elbows, shoulders,

17 ²⁷ (...continued)
18 [www.merckmanuals.com/professional/cardiovascular-disorders/
19 valvular-disorders/pulmonic-regurgitation](http://www.merckmanuals.com/professional/cardiovascular-disorders/valvular-disorders/pulmonic-regurgitation) (last visited July 12,
20 2021).

21 ²⁸ Pericardial effusion is the buildup of extra fluid in the
22 space around the heart. Pericardial Effusion, Cedars Sinai,
23 [https://www.cedars-sinai.org/health-library/
24 diseases-and-conditions/p/pericardial-effusion.html](https://www.cedars-sinai.org/health-library/diseases-and-conditions/p/pericardial-effusion.html) (last visited
25 July 12, 2021).

26 ²⁹ Myocardial ischemia occurs when blood flow to the heart
27 wanes, preventing the heart muscle from receiving enough oxygen.
28 Myocardial Ischemia, Mayo Clinic, [https://www.mayoclinic.org/
diseases-conditions/myocardial-ischemia/symptoms-causes/
syc-20375417](https://www.mayoclinic.org/diseases-conditions/myocardial-ischemia/symptoms-causes/syc-20375417) (last visited July 12, 2021).

³⁰ Dr. Ho practices primarily rheumatology. See Cal. Dep't
Consumer Aff. License Search, <https://search.dca.ca.gov> (search
for "Ho" under "Last Name") (last visited July 12, 2021).

1 lumbar spine, hips, knees, or ankles. (AR 531.) Tinel's sign,³¹
2 bilateral straight-leg-raise test,³² and McMurray test³³ were all
3 negative. (Id.) Elbow and shoulder motion and shoulder
4 abduction were normal. (Id.) She had decreased sensation in the
5 big toes and soles bilaterally, but a motor examination
6 "demonstrated no dysfunction." (AR 532.) Her gait, stance, and
7 reflexes were normal. (Id.)

8 Plaintiff's examination with Dr. Lim in March 2018 revealed
9 5/5 strength without focal motor deficits other than in the
10 nondominant hand. (AR 693-94.) She was well developed, well
11 nourished, and in no acute distress. (AR 693.) Dr. Lim noted
12 normal range of neck motion, but she exhibited pain on motion.
13 (Id.) Her lungs were "bilaterally clear to auscultation," with
14 "normal excursion with respirations." (Id.) Her spine curvature
15 was normal. (AR 694.) She had pain on motion of the knees and
16 wrists but normal range of motion. (Id.) The range of motion of
17 the rest of the joints of the upper and lower extremities was
18 within normal limits bilaterally. (Id.) Her sensation was

20 ³¹ Tinel's sign is positive when tapping the affected nerve
21 produces tingling. See Tinel's Sign, Healthline, [https://](https://www.healthline.com/health/tinels-sign#test)
22 www.healthline.com/health/tinels-sign#test (last visited July 12,
2021).

23 ³² A straight-leg-raise test involves mechanical
24 manipulation of the legs, stressing the neurological tissues in
25 the spine; specific symptoms reported at different degrees of
26 flexion can indicate nerve compression. See The Pain Clinic
Manual 44-45 (Stephen E. Abram & J. David Haddox eds., 2d ed.
2000).

27 ³³ The McMurray test is a "rotation of the tibia on the
28 femur to determine injury to meniscal structures." Stedman's
Medical Dictionary 1805 (27th ed. 2000).

1 grossly intact to soft touch throughout the upper and lower
2 extremities bilaterally. (Id.) Her deep-tendon reflexes were
3 2/2 and symmetrical throughout. (Id.) Likewise, the ALJ
4 correctly noted that she was observed numerous times throughout
5 the record to have a normal stance and gait. (See AR 564 (Mar.
6 7, 2016), 556 (June 5, 2017), 548 (Aug. 16, 2017), 542 (Sept. 20,
7 2017), 532, (Oct. 30, 2017), 656 (Dec. 10, 2017), 524 (Dec. 19,
8 2017).)

9 Similarly, the ALJ properly rejected Plaintiff's allegation
10 of a disabling mental impairment. Although she was assessed with
11 depression throughout the record (see, e.g., AR 345, 603), her
12 treatment for it was "remarkably sparse," as the ALJ noted (AR
13 27), and demonstrated that she was more functional than alleged.
14 When she saw Dr. Song for depression in January 2018, she was
15 oriented to time, place, person, and situation. (AR 603.) She
16 had appropriate mood and affect and normal insight and judgment.
17 (Id.) She reported to Dr. Ijeaku in May 2018 that she was well
18 until her mother passed away, in fall 2016; had never been
19 admitted to a psychiatric hospital; and had never been evaluated
20 by a psychiatrist or therapist. (AR 684.) See Malloy v. Colvin,
21 664 F. App'x 638, 641 (9th Cir. 2016) (substantial evidence
22 supported ALJ's discounting of plaintiff's mental symptom
23 statements when record showed "minimal and inconsistent
24 treatment" for psychological symptoms). During a mental-status
25 examination, she cooperated and had fair eye contact and normal
26 tone, volume, and rate of speech. (AR 686.) She reported that
27 her mood was sad, but her affect was appropriate, there was no
28 psychomotor retardation, and she denied any suicidal or homicidal

1 plans or thoughts. (Id.) Her thought process was goal directed,
2 and she did not exhibit looseness of association, thought
3 disorganization, flight of ideas, thought blocking,
4 tangentiality, or circumstantiality. (Id.) She exhibited no
5 delusions and denied "thought broadcasting" or "insertion";
6 phobias; obsessions; "derealizations"; "depersonalization"; and
7 auditory, visual, tactile, or olfactory hallucinations. (Id.)
8 Her concentration was fair and her memory was good. (Id.) She
9 was alert and oriented to date, place, and person. (Id.) Her
10 interpretation of proverbs, her insight, and her judgment were
11 fair. (Id.)

12 And as the ALJ noted, Plaintiff denied any anxiety or
13 depression at numerous times throughout the record. (See AR 636
14 (Feb. 10, 2017), 628 (Apr. 18, 2017), 615 (Aug. 30, 2017), 611
15 (Oct. 11, 2017), 602 (Jan. 22, 2018), 715 (July 31, 2018), 748
16 (Jan. 11, 2019), 741 (May 23, 2019), 885 (July 30, 2019).) On
17 January 23, 2019, she saw a nurse practitioner for breathing
18 difficulty with exertion and denied having any nervousness,
19 depression, restlessness, or trouble sleeping. (AR 808.)

20 Thus, the ALJ did not err in discounting Plaintiff's
21 subjective symptom statements because they were inconsistent with
22 the objective medical evidence in the record.

23 b. *Daily activities*

24 The ALJ also discounted Plaintiff's subjective symptom
25 statements because her daily activities "indicate[d] that [she
26 was] more functional than alleged." (AR 27.) The ALJ noted that
27 despite her reported pain, Plaintiff "attend[ed] church every
28 Sunday," "dr[ove] her son to school," "clean[ed], [did] laundry,

1 iron[ed],” did “her own grocery shopping,” and had “no problems
2 with personal care.” (AR 27-28.) An ALJ may discount a
3 claimant’s subjective symptom testimony when it is inconsistent
4 with her daily activities. See Molina, 674 F.3d at 1113. “Even
5 where those [daily] activities suggest some difficulty
6 functioning, they may be grounds for discrediting the claimant’s
7 testimony to the extent that they contradict claims of a totally
8 debilitating impairment.” Id.

9 Household activities do not necessarily translate to an
10 ability to obtain and maintain employment. See Fair, 885 F.2d at
11 603 (observing that “many home activities are not easily
12 transferable to what may be the more grueling environment of the
13 workplace, where it might be impossible to periodically rest or
14 take medication”). But if a plaintiff “is able to spend a
15 substantial part of [the] day engaged in . . . physical functions
16 that are transferable to a work setting,” this “may be sufficient
17 to discredit an allegation of disabling excess pain.” Id.
18 (emphasis omitted). Plaintiff’s daily activities, including
19 mopping, sweeping, doing laundry, cleaning her house four days a
20 week, ironing twice a week, shopping for groceries weekly and
21 clothes monthly, and driving her son to and from school on a
22 regular schedule, were more akin to those required in a workplace
23 (see id. at 604 (ALJ’s discounting of plaintiff’s subjective
24 symptom testimony based on daily activities was supported by
25 substantial evidence when plaintiff cared for all of his personal
26 needs, performed routine household maintenance and shopping
27 chores, rode public transportation, and drove his own
28 automobile)); therefore, the ALJ did not err in finding these

1 activities extensive enough to contradict Plaintiff's claims of a
2 totally debilitating impairment. Molina, 674 F.3d at 1113.

3 c. *Conservative treatment*

4 The ALJ also discounted Plaintiff's subjective symptom
5 statements because they were inconsistent with evidence that they
6 were relatively controlled with "mostly conservative treatment
7 that consisted of continuing pain management with medication."
8 (AR 25 (citing AR 629 (Dr. Song noting in April 2017 that
9 Plaintiff should continue her pain management), 545 (Dr. Ho
10 noting in August 2017 that Lyrica was "helping pain some"), 551
11 (same), 534 (Dr. Ho noting in October 2017 that Lyrica was
12 "helping" Plaintiff's fibromyalgia pain and that she was "off
13 Gabapentin"), 526 (Dr. Ho noting in January 2018 that Lyrica was
14 "helping" with fibromyalgia pain "better than Gabapentin"); see
15 also AR 27 (citing AR 684 (Plaintiff reporting that she had never
16 been admitted into psychiatric hospital or evaluated by
17 psychiatrist or therapist and had been prescribed psychotropic
18 medications only by her primary-care physician and pain-
19 management doctors).) The effectiveness of Plaintiff's
20 fibromyalgia medication was evident in her functioning on
21 physical examination. (See AR 524 (gait and stance normal), 532
22 (same), 542 (same), 548 (same), 556 (same), 564 (same), 656
23 (same).) And her psychotropic medication's efficacy was
24 demonstrated by her repeated denial of psychiatric symptoms.
25 (See AR 602 (Plaintiff denying current anxiety or depression),
26 611 (same), 615 (same), 628 (same), 636 (same), 715 (same), 741
27 (same), 748 (same), 885 (same).) Her breathing issues were also
28 quickly controlled when she sought treatment. (See AR 474

1 (Plaintiff "feeling better," with "improved lung sounds," after
2 presenting to emergency department with cough and wheezing and
3 receiving breathing treatment).)

4 This evidence that Plaintiff's treatment was effective was
5 inconsistent with completely disabling symptoms. The ALJ
6 therefore properly considered it in discounting her symptom
7 statements. See Presley-Carrillo v. Berryhill, 692 F. App'x 941,
8 945 (9th Cir. 2017) (discounting claimant's testimony concerning
9 disabling nature of symptoms when it conflicted with evidence of
10 daily activities and effective treatment).

11 Remand is not warranted on this issue.

12 C. The ALJ's Finding that Plaintiff Was Limited to "Non-
13 Complex Routine Tasks" Did Not Conflict with the DOT
14 Descriptions of Office Helper and Merchandise Marker

15 Plaintiff argues that the ALJ's step-five analysis was not
16 supported by substantial evidence because his finding that she
17 was limited to "non-complex routine tasks" (AR 22) conflicted
18 with the DOT descriptions of the office-helper, merchandise-
19 marker, and information-clerk jobs he found she could perform.
20 (J. Stip. at 47-51.) Because there was no conflict with the
21 office-helper and merchandise-marker jobs, remand is not
22 required.³⁴

24 ³⁴ Plaintiff may be correct, however, that the ALJ erred in
25 finding that she could perform the job of information clerk
26 because the DOT describes that job as requiring reasoning level
27 four, which is inconsistent with a limitation to simple, routine
28 tasks. (J. Stip. at 48-49 (citing DOT § 237.367-018, 1991 WL
672187 (Jan. 1, 2016))); see Zavalin v. Colvin, 778 F.3d 842,
845-47 (9th Cir. 2015). (But see J. Stip. at 54-56 (Defendant
(continued...))

1 When a VE provides evidence about the requirements of a job,
2 the ALJ has a responsibility to ask about any possible conflict
3 between that evidence and the DOT. See Gutierrez v. Colvin, 844
4 F.3d 804, 807 (9th Cir. 2016) (“If the expert’s opinion that the
5 applicant is able to work conflicts with, or seems to conflict
6 with, the requirements listed in the Dictionary, then the ALJ
7 must ask the expert to reconcile the conflict before relying on
8 the expert to decide if the claimant is disabled.”); see also SSR
9 00-4p, 2000 WL 1898704, at *4 (Dec. 4, 2000). The conflict must
10 be “obvious or apparent” to trigger the ALJ’s obligation to
11 inquire further, and the inquiry is “fact-dependent.” Lamear v.
12 Berryhill, 865 F.3d 1201, 1205 (9th Cir. 2017) (citing Gutierrez,
13 844 F.3d at 808).

14 1. Office helper

15 Plaintiff acknowledges that office helper is a reasoning-
16 level two occupation that does not raise an apparent conflict
17 with her limitation to noncomplex work. (J. Stip. at 49.)
18 Nevertheless, she argues that office helper is not “non-complex,
19 routine work because of the variety of duties and multiple work
20 fields required.” (J. Stip. at 50.) But she cites no authority
21 holding either that the office-helper job is complex or that any
22 occupation requiring a “variety of duties and multiple work
23 fields” is. The VE testified that based on the DOT and her 30
24

25 ³⁴ (...continued)
26 arguing that Zavalin does not control.) The Court need not
27 resolve the issue because any error was harmless: as discussed
28 below, the ALJ properly found that Plaintiff could perform the
jobs of office helper and merchandise marker. See Meanel v.
Apfel, 172 F.3d 1111, 1115 (9th Cir. 1999).

1 years of experience, a hypothetical person with Plaintiff's age,
2 education, experience, and RFC could perform the office-helper
3 job. (AR 48-49.) Absent some authority holding that someone
4 limited to noncomplex, routine tasks is precluded from performing
5 that job, the ALJ was entitled to rely on the VE's testimony.
6 See Gutierrez, 844 F.3d at 808-09.

7 Accordingly, there was no apparent conflict between the
8 RFC's limitation to noncomplex, routine tasks and the DOT's
9 office-helper-job description, and the ALJ was not required to
10 inquire. See Gutierrez, 844 F.3d at 808; Bradley v. Astrue, No.
11 ED CV 07-1660 PJW., 2009 WL 1844357, at *2 (C.D. Cal. June 25,
12 2009) (holding that ability to perform simple, noncomplex work
13 was consistent with reasoning level two).

14 2. Merchandise marker

15 As with the office-helper job, Plaintiff acknowledges that
16 there is no apparent conflict between the merchandise marker's
17 reasoning-level-two requirement and the limitation to noncomplex
18 tasks. (J. Stip. at 50-51.) But she argues that one nonetheless
19 exists because the merchandise-marker job "has significant worker
20 functions involving data" (id. at 51) and "[d]ata is more
21 complicated than things" (id. at 58). She again has provided no
22 authority so holding, and the Court has found none. Accordingly,
23 the ALJ was entitled to rely on the VE's testimony, there was no
24 apparent conflict, and the ALJ was not required to inquire. See
25 Gutierrez, 844 F.3d at 806-08.

26 **VI. CONCLUSION**

27 Consistent with the foregoing and under sentence four of 42
28 U.S.C. § 405(g), IT IS ORDERED that judgment be entered AFFIRMING

1 the Commissioner's decision, DENYING Plaintiff's request for
2 remand, and DISMISSING this action with prejudice.

3
4 DATED: July 13, 2021



JEAN ROSENBLUTH
U.S. Magistrate Judge

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