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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DEBRA L.R.,¹
Plaintiff

v.

KILOLO KIJAKAZI, Acting
Commissioner of Social Security,²
Defendant.

Case No. 2:20-cv-9028-GJS

**MEMORANDUM OPINION AND
ORDER**

I. PROCEDURAL HISTORY

Plaintiff Debra L. R. (“Plaintiff”) filed a complaint seeking review of the decision of the Commissioner of Social Security denying her application for Disability Insurance Benefits (“DIB”). Pursuant to 28 U.S.C. § 636(c), the parties consented to proceed before the undersigned United States Magistrate Judge (Dkts.

¹ In the interest of privacy, this Order uses only the first name and the initial of the last name of the non-governmental party in this case.

² On July 9, 2021, Kilolo Kijakazi was named Acting Commissioner of the Social Security Administration. See <https://www.ssa.gov/history/commissioners.html>. She is therefore substituted as the defendant in this action. See 42 U.S.C. § 405(g) (referring to the “Commissioner's Answer”); 20 C.F.R. § 422.210(d) (“the person holding the Office of the Commissioner shall, in [their] official capacity, be the proper defendant”).

1 11, 12) and filed briefs addressing the disputed issues in this case. [Dkt. 18 (“Pltf’s.
2 Br.”), Dkt. 19 (“Def. Br.”).] The Court has taken the parties’ briefing under
3 submission without oral argument. For the reasons set forth below, the Court
4 affirms the decision of the ALJ and orders that judgment be entered accordingly.

5 **II. ADMINISTRATIVE DECISION UNDER REVIEW**

6 On October 20, 2021, Plaintiff filed an application for DIB alleging
7 disability beginning September 5, 2015. [Dkt. 15, Administrative Record (“AR”)
8 136-137.] In her application, Plaintiff stated that she became disabled and unable to
9 work due to anxiety, depression, and related disorders. [AR 73-74.] Plaintiff’s
10 application was denied at the initial level of review and on reconsideration. [AR 75-
11 80.] On November 15, 2019, a hearing was held before Administrative Law Judge
12 Ken H. Chau (“the ALJ”). [AR 30-52.] On January 14, 2020, the ALJ issued an
13 unfavorable decision. [AR 15-25.]

14 Applying the five-step sequential evaluation process, the ALJ found Plaintiff
15 not disabled. *See* 20 C.F.R. § 416.920(b)-(g)(1). At step one, the ALJ found that
16 Plaintiff had not engaged in substantial gainful activity since the alleged onset date.
17 [AR 17.] At step two, the ALJ found that Plaintiff suffered from severe
18 impairments including major depressive disorder, anxiety disorder, and alcohol use
19 disorder. [AR 17.] At step three, the ALJ determined that Plaintiff did not have an
20 impairment or combination of impairments that meets or medically equals the
21 severity of one of the impairments listed in Appendix I of the Regulations, (“the
22 Listings”). [AR 18]; *see* 20 C.F.R. Pt. 404, Subpt. P, App. 1. Next, the ALJ found
23 that Plaintiff had the residual functional capacity (“RFC”) to perform a full range of
24 work but with the following nonexertional limitations, she is:

25 limited to simple and routine tasks, limited to occasional interactions
26 with coworkers and supervisors, is precluded from interactions
27 involving negotiation, confrontation or team efforts, and is precluded
28 from working with the general public. [AR 23.]

1 At step four, the ALJ found that Plaintiff could not return to her past relevant work
2 as a Sales Manager. [AR 23.] At step five, based on the vocational expert's
3 testimony, the ALJ found that Plaintiff could perform other jobs existing in
4 significant numbers in the national economy, including representative jobs such as
5 warehouse worker, machine operator, and cleaner. [AR 24.] Based on these
6 findings, the ALJ found Plaintiff not disabled through the date of the decision. [AR
7 24.]

8 The Appeals Council denied review of the ALJ's decision on August 11,
9 2020. [AR 1-6.] This action followed.

10 III. GOVERNING STANDARD

11 Under 42 U.S.C. § 405(g), the Court reviews the Commissioner's decision to
12 determine if: (1) the Commissioner's findings are supported by substantial
13 evidence; and (2) the Commissioner used correct legal standards. *See Carmickle v.*
14 *Comm'r Soc. Sec. Admin.*, 533 F.3d 1155, 1159 (9th Cir. 2008); *Brewes v. Comm'r*
15 *Soc. Sec. Admin.*, 682 F.3d 1157, 1161 (9th Cir. 2012) (internal citation omitted).
16 "Substantial evidence is more than a mere scintilla but less than a preponderance; it
17 is such relevant evidence as a reasonable mind might accept as adequate to support a
18 conclusion." *Gutierrez v. Comm'r of Soc. Sec.*, 740 F.3d 519, 522-23 (9th Cir.
19 2014) (internal citations omitted).

20 The Court will uphold the Commissioner's decision when the evidence is
21 susceptible to more than one rational interpretation. *See Molina v. Astrue*, 674 F.3d
22 1104, 1110 (9th Cir. 2012). However, the Court may review only the reasons stated
23 by the ALJ in his decision "and may not affirm the ALJ on a ground upon which he
24 did not rely." *Orn v. Astrue*, 495 F.3d 625, 630 (9th Cir. 2007). The Court will not
25 reverse the Commissioner's decision if it is based on harmless error, which exists if
26 the error is "inconsequential to the ultimate nondisability determination, or if despite
27 the legal error, the agency's path may reasonably be discerned." *Brown-Hunter v.*
28

1 *Colvin*, 806 F.3d 487, 492 (9th Cir. 2015) (internal quotation marks and citations
2 omitted).

3 IV. DISCUSSION

4 Plaintiff contends that the ALJ erred when he: (1) failed to properly consider
5 her subjective symptom testimony; and (2) failed to consider the lay witness third-
6 party function report. [Pltf's Br. at 5-21.] As set forth below, the Court disagrees
7 with Plaintiff and finds that remand is unwarranted on those issues.

8 1. The ALJ Provided Adequate Reasons to Reject Plaintiff's Subjective 9 Testimony

10 A. Plaintiff's Testimony

11 In detailing her subjective complaints, Plaintiff testified at the administrative
12 hearing on December 23, 2019 and submitted written statements. [AR 32-52, AR
13 173-180.] Plaintiff states that she suffers with "extreme anxiety and panic" attacks.
14 [AR 180.] Plaintiff testified that she was fired from her job selling dog treats in
15 September 2015. [AR 36-37.] Following her termination, Plaintiff looked for
16 positions in the same industry, but she stopped applying because she "wasn't having
17 any success." [AR 37.]

18 When asked about her mental health treatment, Plaintiff testified that, before
19 the disability onset date, "a lot of times she would go to the emergency room [due]
20 to anxiety or panic attacks." [AR 39.] However, the ALJ and Plaintiff's
21 representative confirmed at the hearing that the record did not contain any medical
22 records of hospital visits from before the alleged onset date. [AR 39.] Plaintiff also
23 stated that she had a therapist and psychiatrist briefly, but she no longer attends
24 because those doctors stopped taking her insurance. She now receives her
25 psychotropic medications from her primary care physician, Dr. Wasef, on a monthly
26 basis. [AR 40-41.] Plaintiff's medication, including "Wellbutrin, Lorazepam
27 (Xanax), Cymbalta, and Trazodone," helped at first, but those no longer help
28 alleviate her symptoms. [AR 40-41.] She has panic attacks almost every day and

1 she has difficulties going outside and doing things. [AR 41.] The symptoms
2 stemming from her panic attacks include rapid heartbeat, uncontrolled shaking, and
3 nervousness. Plaintiff testified that she does not leave her apartment for days when
4 she has a panic attack. [AR 41-42.]

5 When asked about her daily activities, Plaintiff testified that it takes her
6 several hours to prepare to go to the grocery store. However, she regularly goes to
7 the supermarket and the doctor. [AR 42.] Plaintiff also provides daily care for two
8 therapy dogs. [AR 44, 166, 174.] In her function report, Plaintiff stated that she
9 struggles to focus and concentrate. [AR 173.] She gets help from her mom and
10 daughter preparing meals, but she can prepare small meals independently including
11 soups or smoothies. [AR 175.] Plaintiff performs household chores including
12 cleaning the patio, watering plants, cleaning the bathroom, and doing some laundry,
13 once a week for about half-a-day. [AR 175.] She goes shopping several times a
14 week for one or two hours. [AR 175.] Plaintiff spends time with others including
15 her daughter, friend, and mom a couple times a week. [AR 177.] However, she has
16 stopped talking to other friends and family and she no longer hosts social events like
17 she did before. [AR 178.] On a regular basis, she goes to the store, to her doctor,
18 and to pick up her daughter. [AR 177.] She only “sometimes” needs a reminder to
19 complete these activities. [AR 177.]

20 **B. Legal Standard**

21 A two-step analysis applies at the administrative level when considering a
22 claimant’s credibility. *Smolen v. Chater*, 80 F.3d 1273, 1281 (9th Cir. 1996). First,
23 the claimant must produce objective medical evidence of an impairment that could
24 reasonably be expected to produce some degree of the symptom or pain alleged. *Id.*
25 at 1281-1282. If the claimant satisfies the first step and there is no evidence of
26 malingering, the ALJ may reject the claimant’s testimony regarding the severity of
27 her symptoms only if she makes specific findings that include clear and convincing
28 reasons for doing so. *Id.* at 1281. The ALJ must “state which testimony is not

1 credible and what evidence suggests the complaints are not credible.” *Mersman v.*
2 *Halter*, 161 F. Supp. 2d 1078, 1086 (N.D. Cal. 2001) (internal citations and
3 quotation marks omitted) (“The lack of specific, clear, and convincing reasons why
4 Plaintiff’s testimony is not credible renders it impossible for [the] Court to
5 determine whether the ALJ’s conclusion is supported by substantial evidence”);
6 Social Security Ruling (“SSR”) 96-7p, 1996 SSR LEXIS 4.

7 An ALJ can consider many factors when assessing the claimant’s credibility.
8 *See Light v. Soc. Sec. Admin.*, 119 F.3d 789, 792 (9th Cir. 1997). The ALJ can
9 consider the claimant’s reputation for truthfulness, prior inconsistent statements
10 concerning symptoms, other testimony by the plaintiff that appears less than candid,
11 unexplained or inadequately explained failure to seek treatment, failure to follow a
12 prescribed course of treatment, plaintiff’s daily activities, the plaintiff’s work
13 record, or the observations of treating and examining physicians. *Smolen*, 80 F.3d at
14 1284; *Orn v. Astrue*, 495 F.3d 625, 638 (9th Cir. 2007).

15 In this case, the ALJ found that Plaintiff’s medically determinable
16 impairments could reasonably be expected to produce her alleged symptoms. [AR
17 21.] Therefore, absent affirmative evidence of malingering, the ALJ’s reasons for
18 rejecting Plaintiff’s testimony must be clear and convincing.

19 **C. The ALJ’s Decision Sets Forth Several Clear and Convincing**
20 **Reasons for Rejecting Plaintiff’s Credibility**

21 Here, the ALJ gave several reasons to reject Plaintiff’s credibility including:
22 (1) she is able to perform a number of daily activities; (2) she provided inconsistent
23 statements on matters related to her disability; (3) she was terminated from her job
24 and she continued to pursue employment for six months following the disability
25 onset date; and (4) inconsistencies between the objective medical evidence and
26 Plaintiff’s allegations of disabling limitations undermined her credibility.

27 First, the ALJ found that Plaintiff’s daily activities were inconsistent with her
28 allegations of disabling symptoms lasting in excess of 12 months. [AR 22.] The

1 ALJ's conclusion here is supported by substantial evidence. Plaintiff's daily
2 activities bear on her credibility if the level of activity is inconsistent with her
3 claimed limitations. *See Reddick v. Chater*, 157 F.3d 715, 722 (9th Cir. 1998).
4 Thus, an ALJ may rely on a Plaintiff's daily activities to support an adverse
5 credibility determination only when those activities either "contradict [the
6 plaintiff's] other testimony," or "meet the threshold for transferable work skills";
7 *i.e.*, where she "is able to spend a substantial part of . . . her day performing
8 household chores or other activities that are transferable to a work setting." *Orn*,
9 495 F.3d at 639. However, a claimant need not be "utterly incapacitated to be
10 eligible for benefits, and many home activities may not be easily transferable to a
11 work environment where it might be impossible to rest periodically or take
12 medication." *Id.*; *see Fair v. Bowen*, 885 F.2d 597, 603 (9th Cir. 1989). The Ninth
13 Circuit has "repeatedly asserted that the mere fact that a plaintiff has carried on
14 certain daily activities, such as grocery shopping, driving a car, or limited walking
15 for exercise, does not in any way detract from her credibility as to her overall
16 disability." *Vertigan v. Halter*, 260 F.3d 1044, 1050 (9th Cir. 2001).

17 Here, Plaintiff testified that she was largely independent in her activities of
18 daily living. [AR 27.] By her own admission, Plaintiff drives approximately four
19 times a week for various errands including shopping, picking up her daughter and
20 going shopping at the store. [AR 22, 176.] Plaintiff also has two therapy dogs that
21 she cares for daily, and she performs household activities including laundry,
22 cleaning the patio, cleaning the bathroom, and preparing meals. [AR 22, 166, 174.]
23 With respect to social interaction, Plaintiff visits with her mother, friend and
24 daughter multiple times a week. [AR 19.] The ALJ also noted that Plaintiff
25 maintained a romantic relationship for years. [AR 22, 317.] While Plaintiff stated
26 that she had to force herself to do these activities and at times needed reminders, she
27 was able to successfully complete these tasks.

28 The ALJ found these activities "inconsistent with a finding of a disabling

1 limitation.” [AR 22.] Specifically, the inconsistency between Plaintiff’s testimony
2 regarding her isolation/seclusion and inability to leave her apartment, and her daily
3 activities involving her frequent social interaction and regular excursions outside her
4 home is a clear and convincing reason to discount her testimony. [See AR 22, 42];
5 *Molina*, 674 F.3d at 1112 (finding plaintiff’s ability to walk grandchildren to and
6 from school, attend church, go shopping, and take walks undermined her claims that
7 she was incapable of being around others without suffering debilitating panic
8 attacks); *Berry v. Astrue*, 622 F.3d 1228, 1234-35 (9th Cir. 2010) (evidence that
9 claimant’s self-reported activities suggested a higher degree of functionality than
10 reflected in subjective symptom testimony adequately supported adverse credibility
11 determination). Accordingly, the ALJ properly determined that, to the extent
12 Plaintiff alleged that she experienced disabling symptoms, her “substantial
13 exertional and non-exertional abilities” rendered her allegations less than fully
14 credible.

15 Second, Plaintiff’s continued search for a job after her alleged onset date
16 constituted a sufficient reason for the ALJ to find Plaintiff’s testimony less than
17 credible. *See Copeland v. Bowen*, 861 F.2d 536, 542 (9th Cir. 1988) (plaintiff’s job
18 search efforts discredited his allegations of disability); *Bray v. Commissioner of*
19 *Social Security Admin.*, 554 F.3d 1219, 1227 (9th Cir. 2009) (fact that a claimant
20 has sought out employment weighs against a finding of disability); *see also Ghanim*
21 *v. Colvin*, 763 F.3d 1154, 1165 (9th Cir. 2014) (“continued receipt” of
22 unemployment benefits can cast doubt on a claim of disability); *but see Webb v.*
23 *Barnhart*, 433 F.3d 683, 688 (9th Cir. 2005) (“That Webb sought employment
24 suggests no more than that he was doing his utmost, in spite of his health, to support
25 himself”).

26 In *Copeland*, the claimant’s assertion of disability was found inconsistent
27 with the fact that he left his job because he was laid off and then received
28 unemployment benefits while holding himself out as available for and capable of

1 work. *Copeland*, 861 F.2d at 542. There, the court concluded this was a sufficient
2 basis to reject a claimant’s testimony. Much like in *Copeland*, following Plaintiff’s
3 termination, she continued to pursue employment “in the same industry,” “doing the
4 same type of stuff” that she had done previously in pet food sales. [AR 37.] While
5 she initially thought it would be easy to find a replacement job because she had a
6 twenty-one-year history in the pet industry, she was unsuccessful which caused her
7 to feel overwhelmed. [AR 37.] After she was terminated, Plaintiff tried to receive
8 unemployment benefits but her former employer refused to complete the paperwork
9 because she had been fired. [AR 38.]

10 Here, Plaintiff’s efforts to obtain identical employment to her previous job
11 strongly suggests that Plaintiff felt she was able to maintain full-time employment
12 despite her symptoms. Thus, it was not error for the ALJ to rely on Plaintiff’s
13 continued efforts to seek employment and unemployment benefits when weighing
14 her credibility. Thus, the record supports the ALJ’s characterization that Plaintiff’s
15 efforts to seek employment after she lost her job raises doubts as to whether her
16 alleged inability to work is related to her impairments. Accordingly, this was
17 another clear and convincing reason to find Plaintiff less than fully credible.

18 Third, the ALJ found that Plaintiff made inconsistent statements on matters
19 relevant to her disability—a finding that is supported by the record. Inconsistent
20 statements are specific and convincing reasons for discounting a claimant’s
21 subjective complaints. *See Tonapetyan v. Halter*, 242 F.3d 1144, 1148 (9th Cir.
22 2001) (“In assessing the claimant’s credibility, the ALJ may use ‘ordinary
23 techniques of credibility evaluation,’ such as considering the claimant’s reputation
24 for truthfulness and any inconsistent statements in her testimony”); *see also Turner*
25 *v. Comm’r of Soc. Sec.*, 613 F.3d 1217, 1225 (9th Cir. 2010).

26 Here, the ALJ noted that while Plaintiff stated in her function report that “she
27 stopped talking to almost everyone, she does not socialize, and has secluded
28 herself,” she also reported that she spends time with her daughter, mother, and

1 friend multiple times a week. [AR 19.] Further, the ALJ noted that, at the
2 administrative hearing, Plaintiff testified that she was fired from her prior job,
3 however she told Dr. Stewart that she was “laid off.” [AR 22.] The ALJ
4 acknowledged that “although the inconsistent information provided by the claimant
5 may not be the result of a conscious intention to mislead, nevertheless the
6 inconsistencies suggest that the information provided by the claimant generally may
7 not be entirely reliable.” The ALJ did not err in finding that Plaintiff was less than
8 truthful based on the inconsistencies in her statements as these obvious
9 discrepancies are sufficient to support discounting Plaintiff’s s subjective symptom
10 allegations.

11 Finally, the ALJ discounted Plaintiff’s testimony because it conflicted with
12 the medical evidence in the record. This too was a factor the ALJ was permitted to
13 consider when assessing Plaintiff’s credibility. *Burch v. Barnhart*, 400 F.3d 676,
14 681 (9th Cir. 2005). (“Although lack of medical evidence cannot form the sole basis
15 for discounting pain testimony, it is a factor that the ALJ can consider in his
16 credibility analysis.”). As the ALJ highlighted in his opinion, the psychological
17 consultative examiner and the prior administrative medical findings from the State
18 agency psychological consultants found that Plaintiff had no more than mild mental
19 work-related limitations. [AR 23.] Considering this evidence, in part, the ALJ
20 ultimately found that the relevant medical evidence in the file only partially
21 supported Plaintiff’s statements regarding the alleged intensity, persistence, and
22 limiting effects of her symptoms. [AR 23.]

23 In sum, the ALJ gave at least one or more clear and convincing reasons for
24 finding Plaintiff’s testimony less than fully credible that were supported by
25 substantial evidence from the record. Accordingly, the ALJ’s adverse credibility
26 determination was not made in error.

27 **2. The ALJ Permissibly Rejected Lay Witness Testimony**

28 “Testimony by a lay witness provides an important source of information

1 about a claimant’s impairments, and an ALJ can reject it only by giving specific
2 reasons germane to each witness.” *Regennitter v. Comm’r*, 166 F.3d 1294, 1298
3 (9th Cir. 1999).

4 Plaintiff argues that the ALJ improperly disregarded her daughter’s third-
5 party statement without comment. [Pltf.’s Br. at 19-21.] In December 2017,
6 Plaintiff’s daughter, Sandra, completed third-party function report describing
7 Plaintiff’s functional limitations. [AR 165-172.] Sandra reported that Plaintiff has
8 difficulty with day-to-day tasks. [AR 165.] She described Plaintiff as needing hours
9 to get ready to go to the store or medical appointments. [AR 166.] When Plaintiff
10 prepares meals, she eats a lot of canned soup, but she requires help to make fresh
11 meals. [AR 167.] Sandra also described that Plaintiff makes four trips a week to the
12 grocery store because she does not get what she wants all at once and it takes her an
13 hour to get through the grocery store. [AR 168.] While Plaintiff used “to go
14 shopping, see friends, go out to eat,” Sandra states that Plaintiff “does not really
15 socialize with many people” other than: Plaintiff’s daughter, friend Michael, her
16 mom, and two therapy dogs. [AR 166, 170.] When under stress, Plaintiff panics,
17 shakes, cries, and has a hard time breathing. [AR 171.]

18 While the ALJ did not discuss Plaintiff’s daughter’s third-party function
19 report, Defendant argues this is harmless error because the lay testimony merely
20 duplicated Plaintiff’s rejected statements. (Def’s Br. at 5-6.) *See Molina*, 674 F.3d
21 at 1121, *superseded by regulation on other grounds* (“Where lay witness testimony
22 does not describe any limitations not already described by the claimant, and the
23 ALJ’s well supported reasons for rejecting the claimant’s testimony apply equally
24 well to the lay witness testimony, it would be inconsistent with our prior harmless
25 error precedent to deem the ALJ’s failure to discuss the lay witness testimony to be
26 prejudicial per se.”). After Defendant raised this argument, Plaintiff did not provide
27 any reply briefing arguing that Sandra’s letter is materially different from Plaintiff’s
28 testimony or attempting to distinguish the harmless error cases cited by Defendant.

1 The Court agrees with Defendant that Sandra’s third-party function report
2 largely mirrors the limitations described by Plaintiff. Plaintiff’s function report
3 states that she has a “very hard time doing basic things.” [AR 173.] Plaintiff shops
4 “several times a week for one to two hours,” she rarely socializes, she takes care of
5 her therapy dogs, and when under stress, she must “catch [her] breath,” she “shakes”
6 and she “cries.” [AR 176-179]; [*compare generally* AR 165-172, with AR 173-
7 180.] Following *Molina*, the ALJ’s failure to discuss Plaintiff’s daughter’s lay
8 witness statement was harmless error and remand is not warranted on this issue.

9 **3. Constitutional Challenge**

10 Finally, in a “Notice of New Authority,” filed after Defendant’s Opposition
11 brief, Plaintiff suggests that the decisions of the United States Supreme Court in
12 *Collins v. Yellen*, 141 S.Ct. 1761, 1783-84, 210 L. Ed. 2d 432 (2021) and *Seila Law*
13 *LLC v. CFPB*, 140 S. Ct. 2183, 2192, 207 L. Ed. 2d 494 (2020), as well as an
14 opinion issued by the White House’s Office of Legal Counsel (“OLC”), cast doubt
15 on the constitutionality of the statute under which Andrew Saul (who was
16 Commissioner of Social Security when the Appeals Council denied his request for
17 review) was appointed.

18 Numerous courts presented with this challenge have deemed it to be without
19 merit or concluded that the claimant lacked standing. *See Collins*, 141 S. Ct. at
20 1802 (Kagan, J., concurring in part) (expressing doubt that the decision would
21 require “the mass of SSA decisions . . . to be undone”); *see, e.g., Standifird v.*
22 *Kijakazi*, No. 20CV1630-GPC(BLM), 2021 WL 5634177 (S.D. Cal. Dec. 1, 2021);
23 *Brinkman v. Kijakazi*, No. 2:21-cv-00528-EJY, 2021 U.S. Dist. LEXIS 186705, at
24 *6-7 (D. Nev. Sep. 29, 2021) (“Because Plaintiff offers nothing that traces the
25 decision by the ALJ in her case to any alleged injurious conduct by the SSA
26 Commissioner, she has not demonstrated traceability and her constitutional violation
27 claim fails for lack of standing.”); *Hester v. Comm’r of Soc. Sec.*, No. C21-0228-
28 SKV, 2021 U.S. Dist. LEXIS 189112, at *5-6 (W.D. Wash. Sep. 30, 2021); *Robles*

1 v. *Comm'r of Soc. Sec.*, 2021 U.S. Dist. LEXIS 180304, 2021 WL 4285170, at *4
2 n.6 (E.D. Cal. Sept. 21, 2021). Thus, remand on this issue is unwarranted.

3 **V. CONCLUSION**

4 For all of the foregoing reasons, **IT IS ORDERED** that the decision of the
5 Commissioner finding Plaintiff not disabled is **AFFIRMED**.

6 **IT IS SO ORDERED.**

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8 DATED: February 23, 2022

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GAIL J. STANDISH
UNITED STATES MAGISTRATE JUDGE

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