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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

DENISE YELDELL-JOHNSON,	)	No. ED CV 07-01408-VBK
	)	
Plaintiff,	)	MEMORANDUM OPINION
	)	AND ORDER
v.	)	
	)	(Social Security Case)
MICHAEL J. ASTRUE,	)	
Commissioner of Social	)	
Security,	)	
	)	
Defendant.	)	
_____	)	

This matter is before the Court for review of the decision by the Commissioner of Social Security denying Plaintiff's application for disability benefits. Pursuant to 28 U.S.C. §636(c), the parties have consented that the case may be handled by the Magistrate Judge. The action arises under 42 U.S.C. §405(g), which authorizes the Court to enter judgment upon the pleadings and transcript of the record before the Commissioner. The parties have filed the Joint Stipulation ("JS"), and the Commissioner has filed the certified Administrative Record ("AR").

This Memorandum Opinion will constitute the Court's findings of fact and conclusions of law.

1 Plaintiff raises the following issues:

- 2 1. Whether the Administrative Law Judge ("ALJ") properly
- 3 considered Plaintiff's treating physician's opinion;
- 4 2. Whether the ALJ properly held Plaintiff has no severe mental
- 5 impairment;
- 6 3. Whether the ALJ properly considered lay witness testimony;
- 7 4. Whether the ALJ complied with the Appeals Council's remand
- 8 order to develop the record regarding Plaintiff's computer
- 9 training; and
- 10 5. Whether the ALJ posed a complete hypothetical question to
- 11 the vocational expert ("VE").

12  
13 **I**

14 **THE ALJ PROPERLY CONSIDERED THE OPINION OF PLAINTIFF'S TREATING**

15 **PHYSICIAN AND THE MEDICAL EVIDENCE REGARDING MENTAL HEALTH ISSUES**

16 In Plaintiff's first denominated issue, she asserts that the ALJ

17 failed to at all consider a Work Capacity Evaluation ("Evaluation")

18 dated January 8, 2004 of her treating physician, Dr. Yakira. (AR 393-

19 394.) Indeed, Dr. Yakira's check-off form indicated both "marked" and

20 "extreme" limitations in literally all of the pertinent mental health

21 areas.

22 The decision in this case (AR 12-21) followed a hearing based

23 upon a remand order of the Appeals Council. (AR 69-71, 515-538.) The

24 previous decision of the same ALJ, dated July 19, 2004, is in the

25 record. (AR 31-38.)

26 In the prior decision, the ALJ directly addressed Dr. Yakira's

27 January 8, 2004 Evaluation. (AR 36.) The ALJ found there was not the

28 "slightest foundation for such grossly exaggerate [sic] lack of

1 function." (AR 36.)

2 In the subsequent decision, the ALJ specifically stated that his  
3 evaluation of the medical evidence contained in the July 19, 2004  
4 decision was incorporated by reference. (AR 15.) Consequently,  
5 Plaintiff's argument that the ALJ failed to consider Dr. Yakira's  
6 opinion is not well taken.

7 Similarly, Plaintiff's argument that the ALJ did not properly  
8 determine that she has no severe mental impairment is without merit.  
9 Plaintiff again cites Dr. Yakira's Evaluation of January 2004. (JS 9.)  
10 Plaintiff fails to note, however, the ALJ's reliance on the October  
11 17, 2005 report of psychiatric consultative examiner ("CE") Dr.  
12 Rodriguez. (AR 19, 440-446.) Dr. Rodriguez conducted a complete  
13 psychiatric examination, including a mental status examination, and  
14 determined that Plaintiff had significantly improved in her  
15 functioning, is basically stable on her antidepressant medication, and  
16 that she has no functional limitations from a psychiatric standpoint.  
17 (AR 440-446.) In combination with the conclusions of the State Agency  
18 psychiatrists, these opinions provided substantial evidence to support  
19 the ALJ's evaluation.

20 Thus, the ALJ did not err in finding that Plaintiff has no severe  
21 mental impairment.

22  
23 **II**

24 **THE ALJ PROPERLY CONSIDERED LAY WITNESS TESTIMONY**

25 Plaintiff contends that the ALJ failed to consider the Daily  
26 Activities Questionnaire dated May 27, 2003 of Dexter Johnson,  
27 identified as her husband. (JS 11, AR 131-135.) Again, as with the  
28 report of Dr. Yakira, Plaintiff fails to acknowledge that in the

1 original decision, this lay witness opinion was extensively discussed  
2 and considered. (AR 36-37.) Since the second decision specifically  
3 incorporated the ALJ's evaluation as contained in the original  
4 decision, Plaintiff's contention is unsupported by the record.  
5 Moreover, the remand order of the Appeals Council did not mandate  
6 reconsideration of this evidence. (AR 69-71.)

7  
8 **III**

9 **THE ALJ COMPLIED WITH THE APPEALS COUNCIL'S REMAND ORDER TO DEVELOP**  
10 **THE RECORD REGARDING THE EXTENT OF PLAINTIFF'S COMPUTER TRAINING**

11 In her fourth issue, Plaintiff contends that the ALJ failed to  
12 obtain evidence of her computer training, as mandated by the remand  
13 order of the Appeals Council. (JS 15, AR 69-71.) This contention is  
14 unsupported by the record. At the subsequent hearing, the ALJ  
15 extensively examined Plaintiff regarding her computer training, after  
16 the issue was raised by Plaintiff's counsel. (AR 533-535.) Indeed, an  
17 entire page of the hearing transcript is devoted to this discussion.  
18 Plaintiff does not contend that she was unable to explain the extent  
19 of her training to the ALJ. Indeed, her own attorney stated that she  
20 went through computer network training in the year 2000. The Court  
21 does not understand what further development of the record could have  
22 accomplished in the absence of any assertion by Plaintiff that she had  
23 undertaken any additional training other than the computer training in  
24 the year 2000 which she extensively discussed with the ALJ.

25  
26 **IV**

27 **THE ALJ POSED A COMPLETE HYPOTHETICAL TO THE VE**

28 Plaintiff contends that the ALJ's hypothetical questions to the

