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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SHELIA WILLIAMS,

Plaintiff,

v.

CAROLYN W. COLVIN, Acting
Commissioner of Social Security,

Defendant.

Case No. EDCV 13-621 JC

MEMORANDUM OPINION

I. SUMMARY

On April 17, 2013, plaintiff Shelia Williams (“plaintiff”) filed a Complaint seeking review of the Commissioner of Social Security’s denial of plaintiff’s application for benefits. The parties have consented to proceed before a United States Magistrate Judge.

This matter is before the Court on the parties’ cross motions for summary judgment, respectively (“Plaintiff’s Motion”) and (“Defendant’s Motion”). The Court has taken both motions under submission without oral argument. See Fed. R. Civ. P. 78; L.R. 7-15; April 19, 2013 Case Management Order ¶ 5.

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1 Based on the record as a whole and the applicable law, the decision of the
2 Commissioner is AFFIRMED. The findings of the Administrative Law Judge
3 (“ALJ”) are supported by substantial evidence and are free from material error.¹

4 **II. BACKGROUND**

5 **A. Previously Adjudicated Application**

6 Plaintiff previously filed an application for Disability Insurance Benefits on
7 May 9, 2008. (Administrative Record (“AR”) 58).

8 On January 21, 2010, the prior ALJ determined that plaintiff was not
9 disabled through the date last insured (*i.e.*, December 31, 2009) (“Prior
10 Decision”). (AR 58-64). Specifically, the prior ALJ found: (1) plaintiff suffered
11 from the following severe impairments: diabetes and hypertension (AR 60);
12 (2) plaintiff’s impairments, considered singly or in combination, did not meet or
13 medically equal a listed impairment (AR 60-61); (3) plaintiff retained the residual
14 functional capacity to perform less than a full range of light work (20 C.F.R.
15 § 404.1567(b))² (AR 61); (4) plaintiff could perform her past relevant work as a
16 cashier (AR 63); and (5) plaintiff’s allegations regarding her limitations were not
17 credible to the extent they were inconsistent with the prior ALJ’s residual
18 functional capacity assessment (AR 62).

19 The Appeals Council denied plaintiff’s application for review of the Prior
20 Decision. (AR 70).

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24 ¹The harmless error rule applies to the review of administrative decisions regarding
25 disability. See Molina v. Astrue, 674 F.3d 1104, 1115-22 (9th Cir. 2012) (discussing contours of
26 application of harmless error standard in social security cases) (citing, *inter alia*, Stout v.
Commissioner, Social Security Administration, 454 F.3d 1050, 1054-56 (9th Cir. 2006)).

27 ²The prior ALJ determined that plaintiff: (i) could lift/pull 10 pounds frequently and 20
28 pounds occasionally; (ii) could stand/walk four hours in an eight-hour work day; (iii) could
occasionally stoop and bend; (iv) required a cane as needed for walking; and (v) might miss work
two times a month. (AR 61).

1 **B. Application In Issue**

2 On April 20, 2010, plaintiff filed subsequent applications for Supplemental
3 Security Income and Disability Insurance Benefits. (AR 147, 154). Plaintiff
4 asserted that she became disabled on January 22, 2010, due to squamous cell
5 carcinoma, diabetes, hypertension/high blood pressure, asthma, headaches, and
6 vomiting. (AR 184). The ALJ examined the medical record and heard testimony
7 from plaintiff (who was represented by counsel), plaintiff’s sister, Charlotte Ford,
8 and a vocational expert on March 23, 2012. (AR 23-54).

9 On April 6, 2012, the ALJ determined that plaintiff was not disabled
10 through the date of the decision. (AR 4-13). Specifically, the ALJ found:
11 (1) plaintiff suffered from the following severe impairments: hypertension and
12 diabetes (AR 7); (2) plaintiff’s impairments, considered singly or in combination,
13 did not meet or medically equal a listed impairment (AR 8); (3) plaintiff retained
14 the residual functional capacity to perform light work (20 C.F.R. §§ 404.1567(b),
15 416.967(b)) with additional limitations³ (AR 8); (4) plaintiff could perform her
16 past relevant work as a mail handler, cashier II, and recreation leader (AR 12-13);
17 and (5) plaintiff’s allegations regarding her limitations were not credible to the
18 extent they were inconsistent with the ALJ’s residual functional capacity
19 assessment (AR 10).

20 The Appeals Council denied plaintiff’s application for review. (AR 19).

21 **III. APPLICABLE LEGAL STANDARDS**

22 **A. Sequential Evaluation Process**

23 To qualify for disability benefits, a claimant must show that the claimant is
24 unable “to engage in any substantial gainful activity by reason of any medically
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26 ³The ALJ determined that plaintiff: (i) could lift and/or pull 10 pounds frequently and 20
27 pounds occasionally; (ii) could stand and/or walk for four hours in an eight-hour work day;
28 (iii) could occasionally stoop and bend; (iv) required a cane as needed for walking; and (v) might miss work two times a month. (AR 8)

1 determinable physical or mental impairment which can be expected to result in
2 death or which has lasted or can be expected to last for a continuous period of not
3 less than 12 months.” Molina v. Astrue, 674 F.3d 1104, 1110 (9th Cir. 2012)
4 (quoting 42 U.S.C. § 423(d)(1)(A)) (internal quotation marks omitted). The
5 impairment must render the claimant incapable of performing the work claimant
6 previously performed and incapable of performing any other substantial gainful
7 employment that exists in the national economy. Tackett v. Apfel, 180 F.3d 1094,
8 1098 (9th Cir. 1999) (citing 42 U.S.C. § 423(d)(2)(A)).

9 In assessing whether a claimant is disabled, an ALJ is to follow a five-step
10 sequential evaluation process:

- 11 (1) Is the claimant presently engaged in substantial gainful activity? If
12 so, the claimant is not disabled. If not, proceed to step two.
- 13 (2) Is the claimant’s alleged impairment sufficiently severe to limit
14 the claimant’s ability to work? If not, the claimant is not
15 disabled. If so, proceed to step three.
- 16 (3) Does the claimant’s impairment, or combination of
17 impairments, meet or equal an impairment listed in 20 C.F.R.
18 Part 404, Subpart P, Appendix 1? If so, the claimant is
19 disabled. If not, proceed to step four.
- 20 (4) Does the claimant possess the residual functional capacity to
21 perform claimant’s past relevant work? If so, the claimant is
22 not disabled. If not, proceed to step five.
- 23 (5) Does the claimant’s residual functional capacity, when
24 considered with the claimant’s age, education, and work
25 experience, allow the claimant to adjust to other work that
26 exists in significant numbers in the national economy? If so,
27 the claimant is not disabled. If not, the claimant is disabled.

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1 Stout v. Commissioner, Social Security Administration, 454 F.3d 1050, 1052 (9th
2 Cir. 2006) (citing 20 C.F.R. §§ 404.1520, 416.920); see also Molina, 674 F.3d at
3 1110 (same).

4 The claimant has the burden of proof at steps one through four, and the
5 Commissioner has the burden of proof at step five. Bustamante v. Massanari, 262
6 F.3d 949, 953-54 (9th Cir. 2001) (citing Tackett, 180 F.3d at 1098); see also Burch
7 v. Barnhart, 400 F.3d 676, 679 (9th Cir. 2005) (claimant carries initial burden of
8 proving disability).

9 **B. Standard of Review**

10 Pursuant to 42 U.S.C. section 405(g), a court may set aside a denial of
11 benefits only if it is not supported by substantial evidence or if it is based on legal
12 error. Robbins v. Social Security Administration, 466 F.3d 880, 882 (9th Cir.
13 2006) (citing Flaten v. Secretary of Health & Human Services, 44 F.3d 1453, 1457
14 (9th Cir. 1995)). Substantial evidence is “such relevant evidence as a reasonable
15 mind might accept as adequate to support a conclusion.” Richardson v. Perales,
16 402 U.S. 389, 401 (1971) (citations and quotations omitted). It is more than a
17 mere scintilla but less than a preponderance. Robbins, 466 F.3d at 882 (citing
18 Young v. Sullivan, 911 F.2d 180, 183 (9th Cir. 1990)).

19 To determine whether substantial evidence supports a finding, a court must
20 “consider the record as a whole, weighing both evidence that supports and
21 evidence that detracts from the [Commissioner’s] conclusion.” Aukland v.
22 Massanari, 257 F.3d 1033, 1035 (9th Cir. 2001) (quoting Penny v. Sullivan, 2 F.3d
23 953, 956 (9th Cir. 1993)). If the evidence can reasonably support either affirming
24 or reversing the ALJ’s conclusion, a court may not substitute its judgment for that
25 of the ALJ. Robbins, 466 F.3d at 882 (citing Flaten, 44 F.3d at 1457).

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1 **IV. DISCUSSION**

2 **A. Substantial Evidence Supports the ALJ’s Determination That**
3 **Plaintiff Failed to Rebut the Presumption of Continuing Non-**
4 **Disability**

5 **1. Pertinent Law**

6 A prior final determination that a claimant is not disabled creates a
7 presumption of continuing non-disability with respect to any subsequent
8 unadjudicated period of alleged disability. Taylor v. Heckler, 765 F.2d 872, 875
9 (9th Cir. 1985) (citation omitted); Lyle v. Secretary, 700 F.2d 566, 568 (9th Cir.
10 1983) (citations omitted). The claimant can, however, overcome this burden by
11 proving “changed circumstances,” such as the existence of an impairment not
12 previously considered, an increase in the severity of an impairment, or a change in
13 the claimant’s age category. See, e.g., Vasquez v. Astrue, 572 F.3d 586, 597-98
14 (9th Cir. 2009) (new allegation of mental impairment and fact that claimant was
15 approaching advanced age constitute changed circumstances) (citations omitted);
16 Schneider v. Commissioner, 223 F.3d 968, 973-74 (9th Cir. 2000) (finding
17 changed circumstances of worsened psychological test scores and different
18 diagnoses); Chavez v. Bowen, 844 F.2d 691, 693 (9th Cir. 1988) (attainment of
19 advanced age constitutes changed circumstance where change is outcome-
20 determinative) (citation omitted).

21 **2. Analysis**

22 To the extent plaintiff contends that a reversal or remand is warranted
23 because the ALJ erroneously determined that plaintiff failed to rebut the
24 presumption of continuing non-disability which arose from the denial of the Prior
25 Application (Plaintiff’s Motion at 3-4), her contention lacks merit.

26 First, plaintiff’s claim is predicated on a misinterpretation of the medical
27 evidence. Plaintiff asserts, in pertinent part, that the ALJ “offered no explanation”
28 for his findings, that the ALJ “did not cite to the prior decision or recite any of the

1 findings in that decision,” and “[t]here is no prior decision in the record.”
2 (Plaintiff’s Motion at 3). In his decision, however, the ALJ discussed the prior
3 ALJ’s findings and expressly adopted the Prior Decision (which is part of the
4 current record⁴) in its entirety. (AR 4, 12, 58-64).

5 Second, substantial evidence supports the ALJ’s determination that plaintiff
6 did not show “changed circumstance” sufficient to rebut the presumption of
7 continuing non-disability. As the ALJ essentially concluded, the medical records
8 do not reflect a more restrictive residual functional capacity assessment for
9 plaintiff than that identified in the Prior Decision. As the ALJ noted, the record
10 reflects that plaintiff’s skin cancer was removed and her asthma was controlled by
11 medication. (AR 239, 244, 251-52, 320, 346). In addition, there was no evidence
12 of plaintiff’s alleged anxiety or that plaintiff experienced complications from her
13 diabetes or hypertension. There was also no evidence that plaintiff’s obesity had
14 any specific or quantifiable impact on her pulmonary, musculoskeletal, endocrine,
15 or cardiac functioning. (AR 10-12, 239-63, 320-24, 344-57). As the ALJ also
16 noted, the medical records document, at most, that plaintiff received conservative
17 treatment for her impairments which consisted of medication, and
18 recommendations for proper nutrition/diet, exercise and weight loss. (AR 11, 239-
19 63, 320-24, 344-57). Plaintiff points to no persuasive medical evidence that her
20 impairments caused limitations beyond those already accounted for in the Prior
21 ALJ’s residual functional capacity assessment.

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23 ⁴To the extent plaintiff asserts that a June 4, 2010 Chavez Screening Guide reflected
24 “there was no prior decision” (Plaintiff’s Motion at 3) (emphasis in original), her assertion is
25 belied by the record. The Chavez Screening Guide indicated only that there was not a “prior
26 ALJ/AC decision” in the record that was “final” (*i.e.*, involved a claim that, among other things,
27 “[was] not pending at the [Appeals Council] or in federal district court . . .”) (AR 179) – which
28 was then accurate considering that, on the date of the Chavez Screening Guide (*i.e.*, June 4,
2010), plaintiff’s request for review was still pending at the Appeals Council. (See AR 64 [Prior
Decision dated January 21, 2010], 70 [Appeals Council Denial of Review of Prior Decision dated
November 5, 2010]).

1 The ALJ's decision is also supported by the opinions of the state agency
2 examining physician, Dr. Sandra M. Eriks, and the examining psychiatrist, Dr.
3 Sohini P. Parikh – neither of whom found any limitations beyond those already
4 accounted for in the Prior ALJ's residual functional capacity assessment. (AR
5 282-88, 305-10). As the ALJ noted, Dr. Parikh essentially diagnosed plaintiff
6 with a mood disorder secondary to her medical condition, and opined that plaintiff
7 had no mental limitations. (AR 11-12) (citing Exhibit B3F at 5-6 [AR 286-87]).
8 Dr. Eriks reported that plaintiff's physical examination was essentially normal and
9 opined that plaintiff could perform work at the heavy exertional level (*i.e.*, lift
10 and/or carry 100 pounds occasionally and 50 pounds frequently, stand and/or walk
11 and sit six hours out of an eight-hour workday). (AR 12) (citing Exhibit B6F [AR
12 305-10]). The opinions of Drs. Parikh and Eriks were supported by their
13 independent examinations of plaintiff (AR 284-86, 307-08), and thus, even
14 without more, constituted substantial evidence supporting the ALJ's decision.
15 See, e.g., Tonapetyan v. Halter, 242 F.3d 1144, 1149 (9th Cir. 2001) (consultative
16 examiner's opinion on its own constituted substantial evidence, because it rested
17 on independent examination of claimant); Andrews v. Shalala, 53 F.3d 1035, 1041
18 (9th Cir. 1995).

19 Finally, for the reasons discussed more fully below, this Court finds no
20 material error in the ALJ's assessment of plaintiff's credibility and no basis to
21 conclude that plaintiff's current complaints in any way rebut the presumption of
22 continuing non-disability.

23 Accordingly, plaintiff is not entitled to a reversal or remand on this basis.

24 **B. The ALJ Properly Evaluated Plaintiff's Credibility**

25 **1. Pertinent Law**

26 Questions of credibility and resolutions of conflicts in the testimony are
27 functions solely of the Commissioner. Greger v. Barnhart, 464 F.3d 968, 972 (9th
28 Cir. 2006). If the ALJ's interpretation of the claimant's testimony is reasonable

1 and is supported by substantial evidence, it is not the court’s role to “second-
2 guess” it. Rollins v. Massanari, 261 F.3d 853, 857 (9th Cir. 2001).

3 An ALJ is not required to believe every allegation of disabling pain or other
4 non-exertional impairment. Orn v. Astrue, 495 F.3d 625, 635 (9th Cir. 2007)
5 (citing Fair v. Bowen, 885 F.2d 597, 603 (9th Cir. 1989)). If the record establishes
6 the existence of a medically determinable impairment that could reasonably give
7 rise to symptoms assertedly suffered by a claimant, an ALJ must make a finding as
8 to the credibility of the claimant’s statements about the symptoms and their
9 functional effect. Robbins, 466 F.3d at 883 (citations omitted). Where the record
10 includes objective medical evidence that the claimant suffers from an impairment
11 that could reasonably produce the symptoms of which the claimant complains, an
12 adverse credibility finding must be based on clear and convincing reasons.
13 Carmickle v. Commissioner, Social Security Administration, 533 F.3d 1155, 1160
14 (9th Cir. 2008) (citations omitted). The only time this standard does not apply is
15 when there is affirmative evidence of malingering. Id. The ALJ’s credibility
16 findings “must be sufficiently specific to allow a reviewing court to conclude the
17 ALJ rejected the claimant’s testimony on permissible grounds and did not
18 arbitrarily discredit the claimant’s testimony.” Moisa v. Barnhart, 367 F.3d 882,
19 885 (9th Cir. 2004).

20 To find the claimant not credible, an ALJ must rely either on reasons
21 unrelated to the subjective testimony (*e.g.*, reputation for dishonesty), internal
22 contradictions in the testimony, or conflicts between the claimant’s testimony and
23 the claimant’s conduct (*e.g.*, daily activities, work record, unexplained or
24 inadequately explained failure to seek treatment or to follow prescribed course of
25 treatment). Orn, 495 F.3d at 636; Robbins, 466 F.3d at 883; Burch, 400 F.3d at
26 680-81; Social Security Ruling 96-7p.⁵ Although an ALJ may not disregard such
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28 ⁵Social Security rulings are binding on the Administration. See 20 C.F.R. § 402.35(b)(1);
Terry v. Sullivan, 903 F.2d 1273, 1275 n.1 (9th Cir. 1990) (citations omitted). Courts generally

(continued...)

1 claimant's testimony solely because it is not substantiated affirmatively by
2 objective medical evidence, the lack of medical evidence is a factor that the ALJ
3 can consider in his credibility assessment. Burch, 400 F.3d at 681.

4 **2. Analysis**

5 Plaintiff contends that the ALJ inadequately evaluated the credibility of her
6 subjective complaints. (Plaintiff's Motion at 4-7). The Court finds no material
7 error in the ALJ's assessment of plaintiff's credibility and no basis to conclude
8 that her current complaints operate to rebut the presumption of continuing non-
9 disability or constituted material evidence to alter the prior ALJ's conclusion that
10 plaintiff was not disabled.

11 First, the ALJ properly discounted the credibility of plaintiff's subjective
12 complaints as inconsistent with plaintiff's daily activities and other conduct. See
13 Thomas v. Barnhart, 278 F.3d 947, 958-59 (9th Cir. 2002) (inconsistency between
14 the claimant's testimony and the claimant's conduct supported rejection of the
15 claimant's credibility); Verduzco v. Apfel, 188 F.3d 1087, 1090 (9th Cir. 1999)
16 (inconsistencies between claimant's testimony and actions cited as a clear and
17 convincing reason for rejecting the claimant's testimony). For example, as the
18 ALJ noted, contrary to plaintiff's allegations of disabling mental and physical
19 symptoms,⁶ plaintiff stated in a function report that she could ride in a car and
20 shop in stores, and plaintiff reported during a psychiatric evaluation that she could
21 manage transportation, could take care of her own grooming and hygiene, would

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24 ⁵(...continued)

25 defer to Social Security Rulings unless they are plainly erroneous or inconsistent with the Social
26 Security Act or regulations. Holohan v. Massanari, 246 F.3d 1195, 1202 n.1 (9th Cir. 2001)
(citations omitted); Paxton v. Secretary of Health and Human Services, 856 F.2d 1352, 1356 (9th
27 Cir. 1988) (citations omitted).

28 ⁶In her Function Report, plaintiff essentially stated that she was in constant pain and that
due to depression she spends her entire waking hours staring at the walls. (AR 192-99).

1 “help[] with the household work sometimes,” got along with family members, had
2 close friends, and had no problems with neighbors. (AR 9, 195, 282, 284).

3 While, as plaintiff correctly notes, “one does not need to be ‘utterly
4 incapacitated’ in order to be disabled,” Vertigan v. Halter, 260 F.3d 1044, 1050
5 (9th Cir. 2001), this does not mean that an ALJ must find that a claimant’s daily
6 activities demonstrate an ability to engage in full-time work (*i.e.*, eight hours a
7 day, five days a week) in order to discount the credibility of conflicting subjective
8 symptom testimony. See Molina, 674 F.3d at 1113 (“[An] ALJ may discredit a
9 claimant’s testimony when the claimant reports participation in everyday activities
10 indicating capacities that are transferable to a work setting . . . [e]ven where those
11 activities suggest some difficulty functioning. . . .”) (citations omitted). Here, the
12 ALJ properly discounted plaintiff’s subjective-symptom testimony to the extent
13 plaintiff’s daily activities were inconsistent with a “totally debilitating
14 impairment.” Id.; see, e.g., Curry v. Sullivan, 925 F.2d 1127, 1130 (9th Cir. 1990)
15 (finding that the claimant’s ability to “take care of her personal needs, prepare
16 easy meals, do light housework and shop for some groceries . . . may be seen as
17 inconsistent with the presence of a condition which would preclude all work
18 activity”) (citing Fair, 885 F.2d at 604). While plaintiff argues that the record
19 does not reflect that she spent a “substantial part of [her] day” engaged in
20 activities that are transferable to a work setting (Plaintiff’s Motion at 5-7), the
21 Court will not second-guess the ALJ’s reasonable determination to the contrary,
22 even if the evidence could give rise to inferences more favorable to plaintiff.

23 Second, the ALJ properly discounted plaintiff’s credibility due to plaintiff’s
24 failure to “seek treatment or to follow a prescribed course of treatment.” See
25 Smolen v. Chater, 80 F.3d 1273, 1284 (9th Cir. 1996). Here, as the ALJ noted,
26 treatment records document occasions when plaintiff failed to comply with the
27 treatment that was recommended, and also note one 15-month period when

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1 plaintiff sought very little treatment at all.⁷ (AR 11, 272 [“Per the records pt
2 hasn’t always been compliant, although now states taking all medications as
3 prescribed”], 348 [“Pt loss [sic] to f/u for approximately 15 month”], 362 [“Pt has
4 not always been compliant but states doing so now”]). In addition, at the hearing
5 plaintiff testified that she did not follow a diabetic diet, even though her doctor
6 had talked with her about controlling diabetes with diet and exercise. (AR 37).
7 While an ALJ may not reject symptom testimony where a claimant provides
8 “evidence of a good reason for not taking medication,” Smolen, 80 F.3d at 1284
9 (citations omitted), plaintiff has failed to present such a sufficient reason.

10 Finally, the ALJ could properly discount plaintiff’s credibility because, as
11 discussed above, the records reflect that plaintiff generally received only
12 conservative treatment for her complaints. (AR 11, 239-63, 320-24, 344-57). See,
13 e.g., Parra v. Astrue, 481 F.3d 742, 751 (9th Cir. 2007) (“[E]vidence of
14 ‘conservative treatment’ is sufficient to discount a claimant’s testimony regarding
15 severity of an impairment.”), cert. denied, 552 U.S. 1141 (2008) (citation omitted).

16 Accordingly, plaintiff is not entitled to a reversal or remand on this basis.

17 **C. The ALJ Properly Considered the Lay Witness Evidence From** 18 **Plaintiff’s Sister**

19 **1. Pertinent Law**

20 Lay testimony as to a claimant’s symptoms is competent evidence that an
21 ALJ must take into account, unless he expressly determines to disregard such
22 testimony and gives reasons germane to each witness for doing so. Stout, 454
23 F.3d at 1056 (citations omitted); Lewis v. Apfel, 236 F.3d 503, 511 (9th Cir.
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26 ⁷As the ALJ noted, although plaintiff claimed that she had sought treatment at the Los
27 Angeles County/University of Southern California Medical Center during the same 15-month
28 period, the treatment records documented only two visits during that time. (AR 11) (citing
Exhibits B2F [AR 271-81] (LAC/USC Medical Center treatment records dated August 4, 2010);
B13F [AR 361-71] (LAC/USC Medical Center treatment records dated January 8, 2010).

1 2001); see also Robbins, 466 F.3d at 885 (ALJ required to account for all lay
2 witness testimony in discussion of findings) (citation omitted); Regennitter v.
3 Commissioner of Social Security Administration, 166 F.3d 1294, 1298 (9th Cir.
4 1999) (testimony by lay witness who has observed claimant is important source of
5 information about claimant’s impairments); Nguyen v. Chater, 100 F.3d 1462,
6 1467 (9th Cir. 1996) (lay witness testimony as to claimant’s symptoms or how
7 impairment affects ability to work is competent evidence and therefore cannot be
8 disregarded without comment) (citations omitted); Sprague v. Bowen, 812 F.2d
9 1226, 1232 (9th Cir. 1987) (ALJ must consider observations of non-medical
10 sources, *e.g.*, lay witnesses, as to how impairment affects claimant’s ability to
11 work).

12 **2. Analysis**

13 Here, plaintiff contends that the ALJ failed to provide sufficient reasons for
14 rejecting the lay statements and testimony regarding plaintiff’s abilities provided
15 by plaintiff’s sister, Charlotte Ford (“Ms. Ford’s Statements”). (Plaintiff’s Motion
16 a 7-11) (citing AR 43-45, 207-14). To the extent the ALJ erred in evaluating Ms.
17 Ford’s Statements, any error was harmless.

18 As plaintiff correctly notes, two of the reasons the ALJ provided for
19 rejecting Ms. Ford’s Statements were inadequate. Specifically, the ALJ’s
20 assertion that plaintiff’s sister “[was] not a medical professional” (AR 10) is not a
21 germane reason for rejecting otherwise competent lay evidence. See Bruce v.
22 Astrue, 557 F.3d 1113, 1116 (9th Cir. 2009) (“A lay person, . . . though not a
23 vocational or medical expert, was not disqualified from rendering an opinion as to
24 how [a claimant’s] condition affects his ability to perform basic work activities.”)
25 (citation omitted). Similarly, the ALJ was not permitted to reject Ms. Ford’s
26 Statements merely because, as plaintiff’s sister/roommate, Ms. Ford was an
27 interested party. See Regennitter, 166 F.3d at 1298 (“[t]he fact that a lay witness
28 is a family member cannot be a ground for rejecting his or her testimony.”)

