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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JOHN A. FAURE,	)	CASE NO. ED CV 13-00884 RZ
	)	
Plaintiff,	)	
	)	MEMORANDUM OPINION
vs.	)	AND ORDER
	)	
CAROLYN W. COLVIN, Acting	)	
Commissioner of Social Security,	)	
	)	
Defendant.	)	

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Plaintiff John Faure returns to this Court after a remand to the Social Security Commissioner, now arguing that the most recent Administrative Law Judge made two errors in determining that he was not disabled. First, Plaintiff asserts that the Administrative Law Judge should have found that he met or equaled Listing 1.03, and therefore that he was disabled. Second, Plaintiff asserts that the Administrative Law Judge wrongly discounted the opinions of the treating physician. The Court finds no error.

A person meeting one of the listings in the Listing of Impairments, 20 C.F.R. Part 404, Subpart P, Appendix I, is deemed disabled without further inquiry. *Lewis v. Apfel*, 236 F.3d 503, 512 (9th Cir. 2001). Listing 1.03 is for persons who have had reconstructive surgery or surgical arthrodesis (joint fusion) of a major weight-bearing joint. There is no evidence that Plaintiff had such surgery. Rather, he had arthroscopic surgery to deal with a torn meniscus. [AR 1449] Therefore, Plaintiff did not meet the Listing.

1 Nor did Plaintiff *equal* the Listing. The listing states in its entirety:  
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3 1.03. *Reconstructive surgery or surgical arthrodesis of a*  
4 *major weight-bearing joint, with inability to ambulate*  
5 *effectively, as defined in 1.00B2b, and return to effective*  
6 *ambulation did not occur, or is not expected to occur, within 12*  
7 *months of onset.*  
8

9 To equal a listing, a person must present medical findings equal in severity to each of the  
10 requirements of the listing. *Kennedy v. Colvin*, 738 F.3d 1172 (9th Cir. 2013); *Sullivan v.*  
11 *Zebley*, 493 U.S. 521 (1990). Plaintiff does not show any medical findings equal in  
12 severity to having reconstructive surgery or surgical arthrodesis. He offers no plausible  
13 theory that there is such medical equivalence, *Lewis v. Apfel*, 236 F.3d 503, 514 (9th Cir.  
14 2001); *Kennedy, supra*, 738 F.3d at 1177. Unlike in *Marcia v. Sullivan*, 900 F.2d 172, 176  
15 (9th Cir. 1990), Plaintiff here has identified no alternative test or other medical findings  
16 that, if evaluated, might lead to a conclusion of medical equivalence. Under those  
17 circumstances, the Administrative Law Judge was not required to make any further  
18 equivalence determination than he did. *Burch v. Barnhart*, 400 F.3d 676, 683 (9th Cir.  
19 2005).

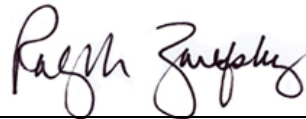
20 Accordingly, Plaintiff is not entitled to relief on his claim that the  
21 Administrative Law Judge should have found that he met or equaled Listing 1.03.

22 Plaintiff also complains that the Administrative Law Judge did not respect the  
23 opinion of treating physician Dr. Ahmed. An administrative law judge is not required to  
24 adopt the treating physician's opinion, so long as he gives specific and legitimate reasons  
25 for his decision. *Magallanes v. Bowen*, 881 F.2d 747, 751 (9th Cir.1989). Here, although  
26 Plaintiff does not specify *which* opinion he thinks the Administrative Law Judge wrongly  
27 discounted, the Administrative Law Judge had sufficient evidence to support the finding  
28 of Plaintiff's residual capacity, and of Plaintiff's ability to perform work in the economy.

1 He relied on the medical expert to help him evaluate the medical evidence, as he was  
2 privileged to do. *Richardson v. Perales*, 402 U.S. 389, 408 (1971). The medical expert did  
3 not think that Plaintiff was in need of a total knee replacement [AR 1493], and thought that  
4 Dr. Ahmed's assessment of Plaintiff was unduly restrictive. [AR 1485] He pointed to  
5 objective evidence for his conclusion and, both because he was an orthopedist and because  
6 he testified consistently with the record, his opinion could be given great weight. *Thomas*  
7 *v. Barnhart*, 278 F.3d 948, 957 (9th Cir. 2002). Plaintiff also complains that the  
8 Administrative Law Judge did not comment on a check-the-box form that Dr. Ahmed  
9 provided, but does not specify a particular opinion therein that needed discussion. In any  
10 event, an administrative law judge is not required to discuss every piece of evidence.  
11 *Howard ex rel. Wolff v. Barnhart*, 341 F.3d 1006, 1012 (9th Cir. 2003).

12           Neither of Plaintiff's claims merits relief. The decision of the Commissioner  
13 is affirmed.

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15           DATED: April 1, 2014

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19 RALPH ZAREFSKY  
20 UNITED STATES MAGISTRATE JUDGE  
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