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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION

ALBERTO VARGAS,)	Case No. ED CV 13-1656-DFM
Plaintiff,)	
v.)	MEMORANDUM OPINION AND
)	ORDER
CAROLYN W. COLVIN, Acting)	
Commissioner of Social Security,)	
Defendant.)	

Plaintiff Alberto Vargas (“Plaintiff”) appeals the decision of the Administrative Law Judge (“ALJ”) denying his application for Supplemental Security Income (“SSI”) benefits. The Court concludes that the ALJ gave specific and legitimate reasons for rejecting the opinion of Plaintiff’s treating psychiatrist. The ALJ’s decision is therefore affirmed and the matter is dismissed with prejudice.

I.

FACTUAL AND PROCEDURAL BACKGROUND

Plaintiff filed his application for SSI benefits on May 14, 2010, alleging disability beginning March 6, 2010. In an unfavorable decision, the ALJ found that Plaintiff had a severe impairment relating to his status following lumbar

1 fusion surgery after injuries suffered in an automobile accident. Administrative
2 Record (“AR”) 11. The ALJ concluded, however, that Plaintiff retained the
3 residual functional capacity to perform medium work with certain additional
4 physical limitations. AR 14. The ALJ then concluded that Plaintiff was not
5 disabled because he could perform his past relevant work as a cashier as
6 actually performed by Plaintiff and as generally performed in the regional and
7 national economies despite his impairment. AR 19.

8 II.

9 ISSUE PRESENTED

10 The parties dispute whether the ALJ erred in rejecting the opinion of
11 Plaintiff’s treating psychiatrist. See Joint Stipulation (“JS”) at 2-3.

12 III.

13 STANDARD OF REVIEW

14 Under 42 U.S.C. § 405(g), a district court may review the
15 Commissioner’s decision to deny benefits. The ALJ’s findings and decision
16 should be upheld if they are free from legal error and are supported by
17 substantial evidence based on the record as a whole. 42 U.S.C. § 405(g);
18 Richardson v. Perales, 402 U.S. 389, 401 (1971); Parra v. Astrue, 481 F.3d
19 742, 746 (9th Cir. 2007). Substantial evidence means such relevant evidence as
20 a reasonable person might accept as adequate to support a conclusion.
21 Richardson, 402 U.S. at 401; Lingenfelter v. Astrue, 504 F.3d 1028, 1035 (9th
22 Cir. 2007). It is more than a scintilla, but less than a preponderance.
23 Lingenfelter, 504 F.3d at 1035 (citing Robbins v. Soc. Sec. Admin., 466 F.3d
24 880, 882 (9th Cir. 2006)). To determine whether substantial evidence supports
25 a finding, the reviewing court “must review the administrative record as a
26 whole, weighing both the evidence that supports and the evidence that detracts
27 from the Commissioner’s conclusion.” Reddick v. Chater, 157 F.3d 715, 720
28 (9th Cir. 1996). “If the evidence can reasonably support either affirming or

1 reversing,” the reviewing court “may not substitute its judgment” for that of
2 the Commissioner. Id. at 720-21.

3 IV.

4 DISCUSSION

5 Plaintiff’s treating psychiatrist, Dr. David Aryanpur, began treating
6 Plaintiff in November 2010. AR 392. Dr. Aryanpur diagnosed Plaintiff with
7 major depression and post-traumatic stress disorder (“PTSD”) stemming from
8 Plaintiff’s involvement in a March 2010 car accident in which he was injured
9 and his friends were killed. AR 408-10. In a January 10, 2012 report, Dr.
10 Aryanpur observed that Plaintiff had insomnia, decreased energy, anxiety,
11 panic episodes, and was tearful. AR 392. Dr. Aryanpur also found that
12 Plaintiff had symptoms of apathy and social withdrawal. Id. Dr. Aryanpur
13 opined that Plaintiff could not maintain a sustained level of concentration,
14 sustain repetitive tasks for an extended period, adapt to new situations, interact
15 appropriately with strangers, or complete a 40-hour work week without
16 decompensating. Id. He concluded that “depression and PTSD preclude
17 gainful employment.” Id.

18 The ALJ indicated that he had considered but “given little weight” to
19 Dr. Aryanpur’s January 2012 opinion. AR 13. The ALJ noted that “Dr.
20 Aryanpur provides no explanation for his assessment.” Id. The ALJ also noted
21 that Dr. Aryanpur’s most recent examination of Plaintiff in November 2011
22 revealed that his thought processes were “normal” and “goal-directed.” Id.
23 (citing AR 394). Additionally, the ALJ made note of the fact that Dr.
24 Aryanpur found in November 2011 that Plaintiff’s judgment was within
25 normal limits and that he was responding well to his medication. Id. (citing
26 AR 394). Finally, the ALJ noted that the consulting examiner found that
27 Plaintiff had nothing more than mild limitations related to his depression and
28 PTSD. Id. (citing AR 368-71).

1 Plaintiff argues that, had the ALJ credited Dr. Aryanpur's opinion, he
2 would be unable to perform his past relevant work and would therefore be
3 found disabled. JS at 4. Plaintiff contends that he would not be able to perform
4 his past relevant work as a cashier because that job is inconsistent with Dr.
5 Aryanpur's opinion that Plaintiff could not interact appropriately with
6 strangers, and he would be unable to perform his past work as a mixing
7 machine operator because that job is inconsistent with Dr. Aryanpur's
8 conclusion that Plaintiff could not sustain repetitive tasks. Id.

9 An ALJ should generally give more weight to a treating physician's
10 opinion than to opinions from non-treating sources. See 20 C.F.R. §
11 404.1527(d)(2); Lester v. Chater, 81 F.3d 821, 830 (9th Cir. 1996). The ALJ
12 must give specific and legitimate reasons for rejecting a treating physician's
13 opinion in favor of a non-treating physician's contradictory opinion. Orn v.
14 Astrue, 495 F.3d 625, 632 (9th Cir. 2007); Lester, 81 F.3d at 830. However,
15 "[t]he ALJ need not accept the opinion of any physician, including a treating
16 physician, if that opinion is brief, conclusory, and inadequately supported by
17 clinical findings." Thomas v. Barnhart, 278 F.3d 947, 957 (9th Cir. 2002);
18 accord Tonapetyan v. Halter, 242 F.3d 1144, 1149 (9th Cir. 2001). The factors
19 to be considered by the adjudicator in determining the weight to give a medical
20 opinion include: "[l]ength of the treatment relationship and the frequency of
21 examination" by the treating physician; and the "nature and extent of the
22 treatment relationship" between the patient and the treating physician. Orn,
23 495 F.3d at 631-33; 20 C.F.R. §§ 404.1527(d)(2)(i)-(ii), 416.927(d)(2)(i)-(ii).

24 The ALJ properly considered Dr. Aryanpur's opinion and did not err in
25 failing to give it controlling weight. First, Dr. Aryanpur did not provide any
26 explanation for his findings of extreme mental limitations and his opinion that
27 Plaintiff could not sustain a 40-hour work week without decompensating. AR
28 13. The January 2012 opinion is a one-page report in which Dr. Aryanpur

1 merely checked off preprinted choices and did not provide any elaboration or
2 explanation for his opinions. Thus, it was reasonable for the ALJ to refuse to
3 give significant weight to this opinion. See Crane v. Shalala, 76 F.3d 251, 253
4 (9th Cir. 1996) (holding that ALJ permissibly rejected “check-off reports that
5 did not contain any explanation of the bases of their conclusions”).

6 The ALJ also rejected Dr. Aryanpur’s opinion because it was
7 inconsistent with his own examination notes. AR 13. As noted by the ALJ,
8 Plaintiff’s November 2011 mental status examination revealed that Plaintiff’s
9 “thought processes were normal and goal directed”; “[h]is judgment was also
10 within normal limits”; and “his affect was appropriate.” Id. (citing AR 394).
11 The ALJ also noted that Plaintiff was “responding well to his medication.” Id.
12 Thus, given Plaintiff’s essentially normal examination and apparent
13 improvement, there does not appear to be any medical support for Dr.
14 Aryanpur’s conclusion two months later that Plaintiff was completely unable
15 to work. See Bayliss v. Barnhart, 427 F.3d 1211, 1216 (9th Cir. 2005)
16 (upholding ALJ’s rejection of physician’s opinion that claimant could stand or
17 walk for only 15 minutes at a time where the physician’s notes taken on the
18 same day contradicted the opinion).

19 Plaintiff argues that the ALJ’s emphasis on a single examination record
20 which found that Plaintiff’s mental status was improving fails to properly
21 consider the longitudinal history of Plaintiff’s mental illness. JS at 5. But it was
22 reasonable for the ALJ to look to Dr. Aryanpur’s most recent examination to
23 see whether his symptoms had improved and whether the limitations provided
24 in Dr. Aryanpur’s opinion were presently substantiated; after all, Plaintiff’s
25 depression and PTSD appear from the record to have been linked to the
26 emotional trauma caused by the March 2010 car accident, not a lifelong
27 struggle with mental illness. The fact that Dr. Aryanpur noted that Plaintiff’s
28 condition was much improved and that his medications appeared to be

1 working is substantial evidence to support the ALJ's decision to give little
2 weight to Dr. Aryanpur's January 2012 opinion. Warre v. Comm'r Soc. Sec.
3 Admin., 439 F.3d 1001, 1006 (9th Cir. 2006) ("Impairments that can be
4 controlled effectively with medication are not disabling for the purpose of
5 determining eligibility for SSI benefits."). Moreover, even if the Court assumes
6 that the ALJ erred here, any error would be harmless because the other reasons
7 given by the ALJ for rejecting Dr. Aryanpur's opinion were supported by
8 substantial evidence in the record. See Molina v. Astrue, 674 F.3d 1104, 1115
9 (9th Cir. 2012) ("We have long recognized that harmless error principles apply
10 in the Social Security Act context.") (citing Stout v. Comm'r, Soc. Sec.
11 Admin., 454 F.3d 1050, 1054 (9th Cir. 2006)).

12 The ALJ also gave less weight to Dr. Aryanpur's opinion because it was
13 contradicted by the opinion of the consultative examining psychiatrist, Dr.
14 Sharmin Jahan. AR 13. As noted by the ALJ, Dr. Jahan's psychiatric
15 evaluation of Plaintiff "revealed normal findings with no problems with
16 memory and concentration." AR 13 (citing AR 368-71). Dr. Jahan opined that
17 Plaintiff was not impaired in his ability to understand and follow simple as
18 well as complex and detailed instructions and was only mildly impaired in the
19 ability to interact with coworkers and supervisors. AR 371. The ALJ properly
20 gave "great weight" to Dr. Jahan's opinion because it was supported by Dr.
21 Jahan's own examination of Plaintiff and by the objective medical evidence as
22 a whole. See Magallanes v. Bowen, 881 F.2d 747, 751 (9th Cir. 1989)
23 (nontreating physician's opinion constituted substantial evidence where it was
24 supported by "objective clinical tests"). Similarly, the state agency reviewing
25 psychiatrists also determined that Plaintiff had only mild impairments in
26 mental functioning and was therefore not disabled, consistent with Dr. Jahan's
27 opinion. AR 14 (citing AR 363-65, 372-79).

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1 In sum, the ALJ provided specific and legitimate reasons for rejecting
2 Dr. Aryanpur's opinion, each of which was supported by substantial evidence
3 in the record, and Plaintiff is therefore not entitled to relief.

4 V.

5 **CONCLUSION**

6 For the reasons stated above, the decision of the Social Security
7 Commissioner is AFFIRMED and the action is DISMISSED with prejudice.

8
9 Dated: August 28, 2014

10 **DOUGLAS F. McCORMICK**

11 _____
12 DOUGLAS F. McCORMICK
13 United States Magistrate Judge
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