

1 record, and each party has filed its supporting brief. After reviewing the matter,
2 the Court concludes the Decision of the Commissioner should be affirmed.

3 **I. BACKGROUND**

4 Plaintiff, Berline Williams, applied for Disability Insurance Benefits on
5 February 21, 2011. (AR 10, 99-100). Plaintiff alleges disability commencing
6 November 10, 2010. (AR 99).

7 The Commissioner denied the application initially. (AR 58-60). A hearing
8 on the claim was conducted on August 12, 2012 (AR 33-48). On August 17,
9 2012, the administrative law judge (“ALJ”) issued an unfavorable Decision (AR
10 7-20). The Appeals Council denied the request of review. (AR 1-6). Plaintiff
11 commenced this civil action seeking judicial review of her case.

12 **II. DISCUSSION**

13 **A. The ALJ Properly Evaluated Plaintiff’s Credibility**

14 Plaintiff asserts that the ALJ failed to properly evaluate her credibility and
15 assess her subjective complaints. In response, Defendant argues that the ALJ
16 articulated clear and convincing reasons why Plaintiff’s statements of disability
17 were inapposite with the administrative record.

18 When assessing the residual functional capacity, the ALJ must evaluate
19 the intensity, persistence, and limiting effects of the individual symptoms to
20 determine the extent to which the symptoms limit the individual’s ability to do
21 basic work activities. Reddick v. Chater, 157 F.3d 715 (9th Cir. 1998).
22 Subjective symptoms are highly idiosyncratic and sometimes suggest a greater
23 severity of impairment than is demonstrated by objective and medical findings
24 alone. Bunnell v. Sullivan, 947 F.2d 341, 345 (9th Cir. 1991). Therefore, once
25 the claimant produces medical evidence of an underlying impairment, the ALJ
26 may not discredit the claimant's testimony as to subjective symptoms merely
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1 because they are unsupported by objective evidence. Id. at 343. Unless there is
2 affirmative evidence showing that the claimant is malingering, the ALJ's reasons
3 for rejecting the claimant's testimony must be "clear and convincing." Valentine
4 v. Commissioner Social Security Admin., 574 F.3d 685, 693 (9th Cir. 2009).

5 At the hearing, Plaintiff alleged she was unable to work due to tremors and
6 pain in her hands and legs as well as numbness in her hands and fingers
7 associated with multiple sclerosis. (AR 12-13; AR 38). The ALJ determined that
8 Plaintiff's "medically determinable impairments could reasonably be expected to
9 cause some of the alleged symptoms, however the claimant's testimony
10 concerning the intensity, persistence and limiting effect of these symptoms are
11 not credible to the extent they are inconsistent with the above medical functional
12 capacity assessment." (AR14).

13 The ALJ provided the following reasons for finding Plaintiff not credible:
14 (1) Plaintiff's somewhat normal level of daily activity and interactions; (2)
15 Plaintiff's routine, conservative, and non-emergency treatment; (3) and the
16 objective medical and diagnostic findings since the alleged onset date. (AR 13-
17 16).

18 In determining Plaintiff's credibility, the first factor the ALJ considered
19 was Plaintiff's report of daily activities. The Plaintiff testified to living in a two-
20 story home with her twelve-year old son. (AR36-37). She reads a book for a
21 couple hours a day. (AR 41). She claimed difficulties with personal care. (AR
22 43). She stated that she is often visited with her niece and together they "do
23 laundry or clean house or just average day stuff, in between... the kids going to
24 school and house." (AR 40). She stated that she sometimes went out to eat. (AR
25 42). She attends church on occasion, cooking sometimes, and grocery shopping.
26 (AR 13, 40-44).

1 Although Plaintiff has carried on certain daily activities, such as grocery
2 shopping, driving a car, or limited walking for exercise, these do not necessarily
3 detract from her credibility as to her overall disability. Vertigan v. Halter, 260
4 F.3d 1044, 1050 (9th Cir. 2001). Nevertheless, they may be grounds for
5 discrediting the claimant's testimony to the extent that they contradict claims of a
6 totally debilitating impairment. Molina v. Astrue, 674 F.3d 1104, 1113 (9th Cir.
7 2012).

8 The ALJ determined,

9 Despite claimant's impairment, she engaged in a somewhat normal
10 level of daily activities and interaction... Some of the physical and
11 mental abilities and social interaction required in order to perform
12 these activities are the same as those necessary for obtaining and
maintaining employment. The undersigned finds the claimant's
ability to participate in such activities diminished the credibility of
claimant's allegation of functional limitations. (AR 14).

13 Although Plaintiff's testimony was somewhat equivocal about how
14 regularly she was able to keep up with all these activities, and there may be other
15 reasonable interpretations, if the ALJ's interpretation is reasonable and supported
16 by substantial evidence then it is not Court's role to second-guess it. Rollins v.
17 Massanari, 261 F.3d 853, 857 (9th Cir. 2001). Here, the reports of daily activities
18 affected Plaintiff's credibility because the somewhat normal level of her daily
19 activity and interactions were inconsistent with Plaintiff's allegedly disabling
20 impairments. In addition, if the Plaintiff engaged in numerous daily activities
21 involving skills that could be transferred to the workplace, the ALJ may discredit
22 the claimant's allegations upon making specific findings relating to the claimant's
23 daily activities. Fair v. Bowen, 885 F.2d 597, 603 (9th Cir.1989). Therefore,
24 there was no reversible error in the ALJ's consideration of Plaintiff's report of
25 daily activities as one factor to discredit her allegations of disabling functional
26 limitations.

1 In addition to Plaintiff's somewhat normal level of reported daily
2 activities, the ALJ properly considered Plaintiff's infrequent, conservative, and
3 non-restrictive treatment as relevant factors in determining Plaintiff's credibility
4 regarding the severity of her symptoms. The ALJ found the following:

5 "The record reveals relatively *infrequent* trips to a doctor for the
6 allegedly disabling symptoms. Although the claimant alleged an
7 inability to afford medical treatment due to lack of health insurance,
8 there is no evidence the claimant could not have obtained low cost or
9 no cost treatment alternatives, such as treatment at a public health
10 clinic.

11 Further when the claimant has received treatment for the
12 allegedly disabling impairments, that treatment has been essentially
13 *routine and conservative* in nature, primarily in the form of
14 medications. The lack of more aggressive treatment or even a referral
15 to a specialist suggests the claimant's symptoms and limitations were
16 not as severe as she alleged. The credibility of the claimant's allegation
17 regarding the severity of her symptoms as limitations is diminished
18 because those allegations are greater than expected in light of the
19 objective evidence of record.

20 Lastly given the claimant's allegation of totally disabling
21 symptoms, one might expect to see some indication in the treatment
22 records of restriction placed on claimant by the treating doctors. Yet,
23 a review of the record in this case reveals *no restrictions* recommended
24 by the treating doctors." (AR 14) (emphasis added).

25 Plaintiff implies that the ALJ should not have considered that the objective
26 medical findings did not support Plaintiff's testimony. Pl.'s Br. 9. However, the
27 ALJ properly considered Plaintiff's lack of objective medical evidence when
28 assessing Plaintiff's credibility regarding the severity of the symptoms. Burch v.
Barnhart, 400 F.3d 676, 680 (9th Cir. 2011). Though it cannot be the sole basis
for discounting testimony, an ALJ may consider "minimal objective evidence" as
one factor in the credibility analysis. Id. Here, the ALJ considered the
conservative treatment as a relevant factor that diminished a Plaintiff's
credibility. Parra v. Astrue, 481 F.3d 742, 750-51(9th Cir. 2007). Another
relevant factor is "unexplained, or inadequately explained, failure to seek
treatment or follow a prescribed course of treatment." Fair v. Bowen, 885 F.2d
597, 603 (9th Cir.1989). Therefore, ALJ properly considered Plaintiff's

1 infrequent, conservative, and non-restrictive treatment as evidence to discredit
2 Plaintiff's testimony.

3 Lastly, the ALJ considered the objective clinical and diagnostic findings as
4 a factor in determining Plaintiff's credibility. The ALJ found the following
5 medical findings:

- 6 1. On January 24, 2011, a neurological examination of the Plaintiff
7 revealed normal gait, normal speech, no sensory deficits, and
8 normal strength in the upper right extremity (AR 15, 195).
- 9 2. On February 23, 2011, Dr. Deborah Fisher recommended the
10 Plaintiff undergo Tysabri infusion to treat her multiple sclerosis
11 symptoms. (AR 15, 207). At a later physical examination on May
12 19, 2011, Dr. Fisher's notes showed reduced sensation in the right
13 upper extremity and left lower extremity, but were otherwise
14 unremarkable. (AR 15,322-323)
- 15 3. On May 2, 2012, consultative examiner Sara L. Maze, M.D., Board
16 eligible neurologist, conducted a complete consultative neurological
17 evaluation of the claimant. (AR 15, 375-386). The findings from the
18 physical examination included: the claimant's coordination was
19 normal bilaterally, as were her reflexes and motor strength; she
20 stood from a seated position, consistent with her level of obesity,
21 and she was able to ambulate independently. (AR 15, 377). Dr.
22 Maze diagnosed the Claimant with clinically stable multiple
23 sclerosis. (AR 15, 377).

24 The ALJ determined the objective clinical and diagnostic findings do not
25 support Plaintiff's claim of disabling impairment. (AR 15). While the evidence
26 may support another conclusion, this Court's role in reviewing whether the
27 ALJ's decision was support by substantial evidence and based on proper legal
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1 grounds. Magallanes v. Bowen, 881 F. 2d 747, 750 (9th Cir. 1989). Therefore, in
2 determining the Plaintiff's credibility the ALJ properly considered that the
3 positive objective clinical and diagnostic findings do not support the alleged
4 severity of Plaintiff's subjective complaints.

5 Overall, the ALJ provided the following clear and convincing reasons to
6 find Plaintiff's subjective complaints were less than fully credible: (1) Plaintiff's
7 somewhat normal level of daily activity and interactions; (2) Plaintiff's routine,
8 conservative, and non-emergency treatment; (3) and the objective medical and
9 diagnostic findings since the alleged onset date.

10 **ORDER**

11 The Court finds the ALJ properly evaluated Plaintiff's credibility when
12 assessing her subjective complaints. For the foregoing reasons, the Decision of
13 the Commissioner is affirmed and the Complaint is dismissed.

14 DATED: September 9, 2014

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17 STEPHEN J. HILLMAN
18 UNITED STATES MAGISTRATE JUDGE
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