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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA-EASTERN DIVISION

BILLY JOE PATTERSON,)	ED CV 14-00012-SH
)	
Plaintiff,)	MEMORANDUM DECISION
)	AND ORDER
v.)	
)	
CAROLYN W. COLVIN, Commissioner,)	
Social Security Administration,)	
)	
Defendant.)	

This matter is before the Court for review of the decision by the Commissioner of Social Security denying plaintiff’s application for Social Security Disability Insurance Benefits pursuant to Title II of the Social Security Act. Pursuant to 28 U.S.C. §636(c), the parties have consented that the case may be handled by the undersigned. The action arises under 42 U.S.C. § 405(g), which authorizes the Court to enter judgment upon the pleadings and transcript

1 of the record before the Commissioner. Plaintiff and Defendant have filed their
2 pleadings (Plaintiff’s Brief in Support of Complaint [“Plaintiff’s Brief”];
3 Defendant’s Brief in Opposition to Plaintiff’s Requested Relief); and the
4 defendant has filed the certified transcript of record.

5
6 **I. BACKGROUND**

7 On January 29, 2011, plaintiff Billy Joe Patterson filed an application for a
8 period of disability or Disability Insurance Benefits, alleging an inability to work
9 since September 29, 2010. (See Administrative Record [“AR”] 30). After
10 plaintiff’s claim was denied initially on March 29, 2011, and upon
11 reconsideration on July 12, 2011, he requested a hearing before an
12 Administrative Law Judge (“ALJ”). (See AR 49, 54, 62). On August 21, 2012,
13 following an administrative hearing (see AR 23-29), the ALJ determined that
14 plaintiff suffered from the following severe impairments: diabetes, hypertension,
15 degenerative disc disease of the cervical spine, adhesive capsulitis of the right
16 shoulder, right shoulder impingement syndrome with type II acromion, and
17 cervical radiculitis. (See AR 13). However, the ALJ found that plaintiff was not
18 disabled within the meaning of the Social Security Act. (See AR 14-17).

19 The Appeals Council denied plaintiff’s request for review on November
20 12, 2013 (see AR 1-3), and the plaintiff filed a Complaint in this Court.

21 Plaintiff challenges the ALJ’s Decision denying benefits, solely alleging
22 that the ALJ erred in finding that the testimony of the vocational expert (“VE”)
23 was consistent with the Dictionary of Occupational Titles (“DOT”) 372.667-034.
24 After reviewing the matter, the Court concludes that the decision of the
25 Commissioner should be affirmed.

1 **II. DISCUSSION**

2 **A. The ALJ did not err in relying on the vocational expert’s testimony**

3 Plaintiff asserts that the ALJ erred in relying on the VE’s testimony,
4 because such testimony was inconsistent with the DOT’s requirements for
5 security guard work. In response, defendant asserts that the ALJ properly relied
6 on the VE’s testimony because a security guard’s duties did not conflict with
7 plaintiff’s Residual Functional Capacity (“RFC”).¹

8 In step four of the five-step sequential evaluation, the ALJ determines
9 whether the claimant can return to his “former type of work” as that work is
10 generally performed, given the claimant’s RFC. Pinto v. Massanari, 249 F.3d
11 840, 845 (9th Cir. 2001) (quoting Villa v. Heckler, 797 F.2d 794, 798 (9th Cir.
12 1986)); see also Lewis v. Barnhart, 281 F.3d 1081, 1083 (9th Cir. 2002) (holding
13 that claimants must be able to perform their past relevant work either as actually
14 performed or as generally performed in the national economy). In step four, the
15 ALJ is required to take notice of the DOT (see 20 C.F.R. § 404.1566(d)), which
16 provides a rebuttable presumption of job requirements and classifications.
17 Johnson v. Shalala, 60 F.3d 1428, 1435 (9th Cir. 1995).

18 At the administrative hearing, the ALJ told the VE that the plaintiff had an
19 RFC designation of light work², with the following exceptions:

20 . . . Occasional climbing stairs, balancing, stooping, and bending; rarely
21 kneeling, crawling, squatting, and crouching; no climbing ladders, ropes,
22 or scaffolds; no work at unprotected heights, around moving machinery or
23 other hazards; no repetitive or constant

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26 ¹ Residual functional capacity is what a claimant can still do despite existing exertional and
27 nonexertional limitations. See 20 C.F.R. § 404.1545(a)(1); Valentine v. Comm’r Soc Sec.
Admin., 574 F.3d 685 (9th Cir. 2009); Frost v. Barnhart, 314 F.3d 359, 366 (9th Cir. 2002).

28 ² “Light work involves lifting no more than 20 pounds at a time with frequent lifting or
carrying of objects weighing up to 10 pounds.” 20 C.F.R. §§ 404.1567(b), 416.967(b).

1 movement of the head or neck; no overhead reaching or lifting above
2 shoulder level; and
3 the use of the right dominant hand limited to frequent use for gross and
4 fine manipulation. (AR 14).

5
6 Based on the ALJ's description of the plaintiff's RFC, age, education, and
7 work experience, the VE testified that the plaintiff could perform the occupation
8 of security guard as generally performed in the national economy, pursuant to
9 DOT 372.667-034. (See AR 24-26). DOT 372.667-034 defines the position of
10 "security guard" in relevant part as follows:

11 Guards industrial or commercial property against fire, theft, vandalism,
12 and illegal entry, performing any combination of following duties [sic]: . . .
13 Patrols, periodically, buildings and grounds of industrial plant or
14 commercial establishment, docks, logging camp area, or work site.
15 Examines doors, windows, and gates to determine that they are secure . . .
16 apprehends or expels miscreants. Inspects equipment and machinery to
17 ascertain if tampering has occurred . . . [m]ay tend furnace or boiler.
18 (DOT 372.667-034).

19 The ALJ found that the vocational expert's testimony was consistent with
20 the duties of a security guard enumerated in DOT 372.667-034. (AR 16-17).
21 Based on the VE's testimony, the ALJ determined that the plaintiff was capable
22 of working as a security guard as the job is generally performed. (Id.).

23 Plaintiff asserts that the VE's testimony was not consistent with DOT
24 372.667-034, because the plaintiff's restrictions on working near moving
25 machinery and other hazards, on reaching overhead and lifting above shoulder
26 level, and on performing constant and repetitive head and neck movements were
27 inconsistent with a security guard's duties. (See Plaintiff's Brief at 4-6).

1 However, contrary to plaintiff's assertion, there is no evidence that an individual
2 with plaintiff's RFC would not be able to perform the job of security guard as
3 defined by DOT 372.667-034.

4 Since the VE's testimony that plaintiff could perform the work of a
5 security guard was consistent with the description of a security guard's duties,
6 the ALJ properly relied on the vocational expert's testimony.

7
8 **III. CONCLUSION**

9 For the foregoing reasons, the Decision of the Commissioner is affirmed,
10 pursuant to Sentence 4 of 42 U.S.C. § 405(g).

11 DATED: June 30, 2014

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15 STEPHEN J. HILLMAN
16 UNITED STATES MAGISTRATE JUDGE
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