UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

TERESA A. AVILEZ, Plaintiff, vs. CAROLYN W. COLVIN, Acting Commissioner of Social Security, Defendant.	Case No. EDCV 14-0732-JPR **MEMORANDUM OPINION AND ORDER AFFIRMING COMMISSIONER**

I. PROCEEDINGS

Plaintiff seeks review of the Commissioner's final decision denying her applications for Social Security disability insurance benefits ("DIB") and supplemental security income benefits ("SSI"). This matter is before the Court on the parties' Joint Stipulation, filed January 9, 2015, which the Court has taken under submission without oral argument. For the reasons stated below, the Commissioner's decision is affirmed.

II. BACKGROUND

Plaintiff was born on December 11, 1961. (Administrative Record ("AR") 24, 215.) She completed eighth grade (AR 24, 245) and worked as a stock clerk, child monitor, and customer-service

agent (AR 96, 246). On April 6, 2011, Plaintiff filed applications for DIB and SSI, alleging that she had been unable to work since July 31, 2009, because of a herniated disc. (AR 215-26, 245.) After Plaintiff's applications were denied initially and on reconsideration, she requested a hearing before an Administrative Law Judge. (AR 199-201.)

A hearing was held on October 24, 2012, at which Plaintiff appeared and was represented by counsel. (See AR 63.) Plaintiff testified, as did both a medical expert and a vocational expert. (See AR 64.) In a written decision issued November 14, 2012, the ALJ determined that Plaintiff was not disabled. (AR 13-26.)

On January 11, 2013, Plaintiff requested review by the Appeals Council. (AR 7-8; see also AR 279-82 (letter brief).) On February 21, 2014, the Appeals Council denied Plaintiff's request for review. (AR 1-3.) This action followed.

III. STANDARD OF REVIEW

Under 42 U.S.C. § 405(g), a district court may review the Commissioner's decision to deny benefits. The ALJ's findings and decision should be upheld if they are free of legal error and supported by substantial evidence based on the record as a whole. See id.; Richardson v. Perales, 402 U.S. 389, 401 (1971); Parra v. Astrue, 481 F.3d 742, 746 (9th Cir. 2007). Substantial evidence means such evidence as a reasonable person might accept as adequate to support a conclusion. Richardson, 402 U.S. at 401; Lingenfelter v. Astrue, 504 F.3d 1028, 1035 (9th Cir. 2007). It is more than a scintilla but less than a preponderance. Lingenfelter, 504 F.3d at 1035. To determine whether substantial evidence supports a finding, the reviewing court "must review the

administrative record as a whole, weighing both the evidence that supports and the evidence that detracts from the Commissioner's conclusion." Reddick v. Chater, 157 F.3d 715, 720 (9th Cir. 1996). "If the evidence can reasonably support either affirming or reversing," the reviewing court "may not substitute its judgment" for that of the Commissioner. Id. at 720-21.

IV. THE EVALUATION OF DISABILITY

People are "disabled" for purposes of receiving Social Security benefits if they are unable to engage in any substantial gainful activity owing to a physical or mental impairment that is expected to result in death or has lasted, or is expected to last, for a continuous period of at least 12 months. 42 U.S.C. § 423(d)(1)(A); Drouin v. Sullivan, 966 F.2d 1255, 1257 (9th Cir. 1992).

A. The Five-Step Evaluation Process

The ALJ follows a five-step sequential evaluation process in assessing whether a claimant is disabled. 20 C.F.R. §§ 404.1520(a)(4), 416.920(a)(4); Lester v. Chater, 81 F.3d 821, 828 n.5 (9th Cir. 1995) (as amended Apr. 9, 1996). In the first step, the Commissioner must determine whether the claimant is currently engaged in substantial gainful activity; if so, the claimant is not disabled and the claim must be denied. §§ 404.1520(a)(4)(i), 416.920(a)(4)(i).

If the claimant is not engaged in substantial gainful activity, the second step requires the Commissioner to determine whether the claimant has a "severe" impairment or combination of impairments significantly limiting her ability to do basic work activities; if not, a finding of not disabled is made and the

claim must be denied. §§ 404.1520(a)(4)(ii), 416.920(a)(4)(ii).

If the claimant has a "severe" impairment or combination of impairments, the third step requires the Commissioner to determine whether the impairment or combination of impairments meets or equals an impairment in the Listing of Impairments ("Listing") set forth at 20 C.F.R. part 404, subpart P, appendix 1; if so, disability is conclusively presumed and benefits are awarded. §§ 404.1520(a)(4)(iii), 416.920(a)(4)(iii).

If the claimant's impairment or combination of impairments does not meet or equal an impairment in the Listing, the fourth step requires the Commissioner to determine whether the claimant has sufficient residual functional capacity ("RFC")[1] to perform her past work; if so, the claimant is not disabled and the claim must be denied. §§ 404.1520(a)(4)(iv), 416.920(a)(4)(iv). The claimant has the burden of proving she is unable to perform past relevant work. Drouin, 966 F.2d at 1257. If the claimant meets that burden, a prima facie case of disability is established. Id.

If that happens or if the claimant has no past relevant work, the Commissioner then bears the burden of establishing that the claimant is not disabled because she can perform other substantial gainful work available in the national economy. §§ 404.1520(a)(4)(v), 416.920(a)(4)(v). That determination comprises the fifth and final step in the sequential analysis. §§ 404.1520, 416.920; Lester, 81 F.3d at 828 n.5; Drouin, 966

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[1] RFC is what a claimant can do despite existing exertional and nonexertional limitations. §§ 404.1545, 416.945; see Cooper v. Sullivan, 880 F.2d 1152, 1155 n.5 (9th Cir. 1989).

F.2d at 1257.

B. The ALJ's Application of the Five-Step Process

At step one, the ALJ found that Plaintiff had not engaged in any substantial gainful activity since July 20, 2009, her alleged onset date. (AR 15.) At step two, she found that Plaintiff had the severe impairments of "lumbo sacral degenerative disc disease, osteitis condensans ilii bilateral, [and] left shoulder tendonitis and impingement."[2] (AR 16) At step three, the ALJ determined that Plaintiff's impairments did not meet or equal any of the impairments in the Listing. (Id.) At step four, she found that Plaintiff had the RFC to perform light work with additional limitations:

> [S]he can lift and/or carry 10 pounds frequently and 20 pounds occasionally; she can stand and/or walk two hours out of an eight-hour workday and sit six hours out of an eight-hour workday with the ability to stand and stretch every hour, estimated to take one to three minutes per hour; she can occasionally bend, kneel, stoop, crouch, and crawl; she can occasionally climb stairs, but she cannot climb ladders, work at heights, or balance; and she can occasionally work above shoulder level on the left side with no limitations on the right.

(Id.) Based on the VE's testimony, the ALJ concluded that

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[2] Osteitis condensans ilii is increased density in the iliac bone of the pelvis. See Osteitis condensans ilii, http://riversideonline.com/health_reference/questions-answers/an00316.cfm (last updated May 15, 2006). The condition generally causes no signs or symptoms but can cause low-back pain. Id.; (see also AR 78).

Plaintiff was unable to perform her past relevant work. (AR 24.) The ALJ found, however, that Plaintiff could perform jobs that existed in significant numbers in the national economy. (AR 25.) Accordingly, she found Plaintiff not disabled. (AR 26.)

V. DISCUSSION

Plaintiff claims that the ALJ erred in (1) finding her capable of light work despite her stand/walk limitation and stretching requirement and (2) finding her capable of the jobs identified by the VE despite her left-shoulder limitation. (See J. Stip. at 4.) Because the ALJ's determinations were supported by substantial evidence, remand is not warranted.

A. The ALJ Did Not Err in Finding Plaintiff Capable of Light Work

Plaintiff contends that the ALJ erred in finding her capable of light work given that Plaintiff's RFC limited her to only two hours of standing or walking in an eight-hour workday and required that she be permitted to stand and stretch hourly. (J. Stip. at 5-9, 13-15.)

1. Applicable law

A district court must uphold an ALJ's RFC assessment when the ALJ has applied the proper legal standard and substantial evidence in the record as a whole supports the decision. Bayliss v. Barnhart, 427 F.3d 1211, 1217 (9th Cir. 2005). The ALJ must consider all the medical evidence in the record and "explain in [her] decision the weight given to . . . [the] opinions from treating sources, nontreating sources, and other nonexamining sources." §§ 404.1527(e)(2)(ii), 416.927(e)(2)(ii); see also §§ 404.1545(a)(1) ("We will assess your residual functional

capacity based on all the relevant evidence in your case record."), 416.945(a)(1) (same); SSR 96-8p, 1996 WL 374184, at *2 (July 2, 1996) (RFC is assessed "based on all of the relevant evidence in the case record"). In making an RFC determination, the ALJ may consider those limitations for which there is support in the record and need not consider properly rejected evidence or subjective complaints. See Bayliss, 427 F.3d at 1217 (upholding ALJ's RFC determination because "the ALJ took into account those limitations for which there was record support that did not depend on [claimant's] subjective complaints"); Batson v. Comm'r of Soc. Sec. Admin., 359 F.3d 1190, 1197 (9th Cir. 2004) (ALJ not required to incorporate into RFC any findings from treating-physician opinions that were "permissibly discounted"). The Court must consider the ALJ's decision in the context of "the entire record as a whole," and if the "evidence is susceptible to more than one rational interpretation, the ALJ's decision should be upheld." Ryan v. Comm'r of Soc. Sec., 528 F.3d 1194, 1198 (9th Cir. 2008) (internal quotation marks omitted).

2. Analysis

Plaintiff contends that in finding her capable of light work, the ALJ failed to give adequate reasons for discounting the opinions of the state-agency doctors, who found Plaintiff capable of sedentary work.[3] (J. Stip. at 7; see AR 112, 157, 376.)

Three types of physicians may offer opinions in Social Security cases: (1) those who directly treated the plaintiff, (2) those who examined but did not treat the plaintiff, and (3) those

[3] Plaintiff does not challenge the ALJ's assessment of the other medical opinions of record.

who did neither. Lester, 81 F.3d at 830. A treating physician's opinion is generally entitled to more weight than that of an examining psysician, and an examining physician's opinion is generally entitled to more weight than that of a nonexamining physician. Id. Generally, the weight given a physician's opinion is determined by length of the treatment relationship, frequency of examination, nature and extent of the treatment relationship, amount of evidence supporting the opinion, consistency with the record as a whole, the doctor's area of specialization, and other factors. §§ 404.1527(c)(2)-(6), 416.927(c)(2)-(6).

On July 28, 2011, state-agency physician J. Hartman opined that Plaintiff could lift 20 pounds occasionally and 10 pounds frequently, walk or stand for four hours and sit for six hours in an eight-hour workday, and do postural and agility activities only occasionally. (AR 376.) The same day, Dr. Hartman's opinion was incorporated into a Disability Determination Explanation (see AR 106-07), in which state-agency physician Leonard Naiman opined that Plaintiff could lift 20 pounds occasionally and 10 pounds frequently; stand or walk for four hours and sit for six hours in an eight-hour day; perform limited pushing and pulling activities with her lower extremities; occasionally climb stairs, balance, stoop, kneel, crouch, and crawl; never climb ladders, ropes, or scaffolds; and have limited exposure to hazards (AR 108-10). On December 7, 2011, state-agency physician N.J. Rubaum affirmed this RFC determination upon reconsideration. (AR 153-55.) Drs. Naiman and Rubaum indicated that Plaintiff could perform sedentary work, based on the

Medical-Vocational Guidelines (the "Grids"). (AR 112, 157); see 20 C.F.R. pt. 404, subpt. P, app. 2 § 201.21. The Case Analysis prepared by Dr. Hartman and a state-agency employee identified as TAWOOD includes the latter's notation that "[b]ased on longitudinal evidence and [consultative examination], [claimant] can still do a [sedentary] job with limitations." (AR 376.) The Commissioner argues that this statement should not be attributed to Dr. Hartman (J. Stip. at 9-10), but he signed the form without any contrary indication, suggesting agreement. Thus, all three state-agency doctors recognized Plaintiff's ability to perform sedentary work.

As an initial matter, the RFC determined by the ALJ was largely consistent with those provided by the state-agency doctors. (See AR 22-23 (giving Dr. Hartman's opinion "substantial weight").)[4] To the extent the ALJ's RFC determination diverged from those of the state-agency doctors, it did so in Plaintiff's favor, adopting more severe restrictions: only two hours of standing or walking in an eight-hour day

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[4] The ALJ did not indicate the weight afforded the disability determinations provided by Drs. Naiman and Rubaum. See §§ 404.1527(e)(2)(ii), 416.927(e)(2)(ii) (unless controlling weight is given to opinion of treating source, ALJ will explain weight given opinions of state-agency doctors). Because these state-agency physicians found essentially the same limitations as Dr. Hartman, based in large part upon his findings (see AR 106-07, 110, 152), any error in failing to specify the weight afforded their opinions was harmless. See Carmickle v. Comm'r Soc. Sec. Admin., 533 F.3d 1155, 1162 (9th Cir. 2008) (holding that ALJ's error is harmless as long as substantial evidence supports ultimate conclusion); cf. Rogal v. Colvin, 590 F. App'x 667, 670-71 (9th Cir. 2014) (finding failure to specify weight afforded doctor's opinion harmless when "significant weight" was given to opinion of second doctor who relied on first doctor's opinion).

instead of four; an hourly stretching requirement; no balancing; and only occasional work above shoulder level on the left side. (Compare AR 16 with AR 108-09, 154.) Moreover, to the extent comparison is possible, the RFC formulated by the ALJ is at least as restrictive as the RFCs recommended by other doctors whose opinions are reflected in the record. (See AR 77 (on Oct. 24, 2012, medical expert Dr. Samuel Landau opining that Plaintiff should be limited to two hours standing and walking and be permitted to stretch for one to three minutes each hour; should lift no more than 20 pounds occasionally and 10 pounds frequently; should stoop and bend only occasionally; should avoid ladders, heights, and balancing; and should only occasionally work above shoulder level on the left side), 519-20 (on July 8, 2011, treating orthopedist Kambiz Hannani opining that Plaintiff should lift only 20 pounds occasionally and 10 pounds frequently and be precluded from frequent bending).)[5]

Plaintiff contends, however, that the ALJ erred in failing to restrict her to sedentary work, as indicated by the state-agency doctors, or provide a reason for not doing so. (J. Stip. at 7; AR 112, 157.) As an initial matter, the ALJ's finding that Plaintiff could perform a limited range of light work was

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[5] Because treating neurologist Jose Rodriguez couched his opinion that Plaintiff could not work (at least, absent "severe restrictions") in terms of her employment in a warehouse, where she did "a lot of lifting" (AR 290, 293, 298), his opinion gives no indication whether he considered Plaintiff capable of a restricted range of light work. Similarly, on February 8, 2011, examining orthopedist Ralph Steiger found Plaintiff temporarily totally disabled, indicating that she was unable to return to her existing employment, but his opinions do not indicate whether he considered her capable of less taxing work. (AR 569; see also AR 553.)

supported by the opinion of consulting examiner orthopedist Robert MacArthur, who found the same thing (AR 373) and whose opinion the ALJ gave "significant weight" (AR 22). Further, the state-agency doctors' indications that Plaintiff was restricted to sedentary work was not a medical finding but merely reflected the doctors' application of the Grids to Plaintiff's physical limitations. The ALJ was permitted to and did consult a VE to determine what light-work jobs available in significant numbers in the economy would accommodate Plaintiff's additional limitations. See SSR 83-12, 1983 WL 31253, at *2 (Jan. 1, 1983) (noting that when individual's exertional RFC does not coincide with any of defined ranges of work but instead includes "considerably greater restriction(s)," VE testimony can clarify extent of erosion of occupational base); Moore v. Apfel, 216 F.3d 864, 870 (9th Cir. 2000) ("SSR 83–12 directs that when a claimant falls between two grids, consultation with a VE is appropriate."); Thomas v. Barnhart, 278 F.3d 947, 960 (9th Cir. 2002) (same).

The ALJ presented a hypothetical to the VE that encompassed all of Plaintiff's physical limitations — which Plaintiff does not challenge — including her ability to stand and/or walk for no more than two hours in an eight-hour workday, her requirement of hourly stretching, and her limitation to only occasional above-shoulder work with her left arm. (AR 96.) The ALJ advised the VE to "[p]lease testify according to the Dictionary of Occupational Titles or explain why you are not testifying according to the Dictionary of Occupational Titles and state what your testimony is based upon." (AR 95.) The VE testified that a

person with Plaintiff's limitations could perform the jobs of cashier II and information clerk. (AR 97.) The VE also eroded the number of jobs available regionally and in the national economy by 50 percent to reflect Plaintiff's limitations. (Id.)[6]

Because the hypothetical presented to the VE included all of Plaintiff's limitations that were supported by the record, a fact Plaintiff does not challenge, the ALJ was entitled to rely on the VE's testimony. See Thomas, 278 F.3d at 956 (finding VE testimony reliable when hypothetical posed included all of claimant's functional limitations); see also Bayliss, 427 F.3d at 1218 ("A VE's recognized expertise provides the necessary foundation for his or her testimony."). Moreover, the VE provided a "significant reduction" in the job numbers to account for Plaintiff's limitations and the extent to which the VE's findings deviated from the DOT. (See J. Stip. at 8 (Plaintiff asserting VE's testimony deviated from DOT), 9 (Plaintiff arguing that limitations would require "significant reduction" in job numbers)); Johnson v. Shalala, 60 F.3d 1428, 1435 (9th Cir. 1995) (noting that "an ALJ may rely on expert testimony which contradicts the DOT" as long as "the record contains persuasive evidence to support the deviation"); Hawley v. Colvin, No. EDCV 13-00769 AN, 2014 WL 1276194, at *3 (C.D. Cal. Mar. 27, 2014) (finding that VE's express recognition of erosion of available jobs provided sufficient rationale to support deviation from

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[6] The VE's erosion of the available jobs left 4,300 cashier-II jobs regionally and 37,750 nationally and 2,350 information-clerk jobs regionally and 31,350 nationally. (AR 97.)

DOT); Palacios v. Astrue, No. EDCV 10-1743 AJW, 2012 WL 601874, at *11 (C.D. Cal. Feb. 23, 2012) (same).

Plaintiff contends that because the ALJ found her capable of standing or walking only two hours in an eight-hour day, and because light work in most cases requires approximately six hours of standing or walking, the ALJ's finding that she was capable of light work "violates agency policy." (J. Stip. at 6-7 (citing SSR 83-10, 1983 WL 31251, at *6 (Jan. 1, 1983) (noting that "the full range of light work requires standing or walking, off and on, for a total of approximately 6 hours of an 8-hour workday")).) But the Social Security "regulations, themselves, provide that the DOT classifications are rebuttable" and "recognize vocational experts and several published sources other than the DOT as authoritative." Johnson, 60 F.3d at 1435-36 (citing § 404.1566(d)(2)–(5), (e)). Although most light work requires more standing and walking than the ALJ found Plaintiff able to perform, some light-work positions require no more than two hours of standing and walking. See Ortiz v. Colvin, No. ED CV 14-61-AS, 2014 WL 7149544, at *4 (C.D. Cal. Dec. 15, 2014); Taylor v. Astrue, No. CV 10-03328-JEM, 2011 WL 976777, at *4-5 (C.D. Cal. Mar. 18, 2011); see also Rosales v. Colvin, No. SACV 12-753-AGR, 2013 WL 6152861, at *13 (C.D. Cal. Nov. 22, 2013) (rejecting argument that sit/stand option precludes finding of light work).[7] Plaintiff does not dispute that the VE identified

[7] Pierce v. Astrue, 382 F. App'x 618 (9th Cir. 2010), upon which Plaintiff relies (J. Stip. at 9), is inapposite. Unlike the ALJ in this case, the ALJ in Pierce improperly rejected a doctor's finding that the claimant was capable of only two hours of standing or walking. 382 F. App'x at 619-20. The court did not consider

jobs that would accommodate her stand/walk restriction. (J. Stip. at 5 (noting that VE "identified positions that would be performed in a seated position").)

Remand is not warranted on this basis.

B. The ALJ Did Not Err in Finding that Plaintiff Could Perform Jobs Requiring Frequent Reaching

Plaintiff further contends that because her RFC provided that she could perform only "occasional[] work above shoulder level on the left side," the positions identified by the VE, which require "frequent reaching," were inconsistent with the demands of her RFC.[8] (J. Stip. at 16; see AR 16, 25, 96); DOT 211.462-010 (cashier II), available at 1991 WL 671840; DOT 237.367-018 (information clerk), available at 1991 WL 672187. Plaintiff asserts that because reaching is defined in the DOT as "extending the hands and arms in any direction," SSR 85-15, 1985 WL 56857, at *7 (Jan. 1, 1985), it necessarily includes reaching above shoulder level.

As an initial matter, the RFC determined by the ALJ did not restrict Plaintiff's "reaching" but rather limited her to only "occasional[] work above shoulder level on the left side."[9] (AR 16; see AR 96.) "Work" and "reaching" are not necessarily the same thing. Viewed in the context of the evidence as a whole,

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whether such a limitation would permit light work.

[8] As defined by the Social Security Administration, occasional means "occurring from very little up to one-third of the time." SSR 83–10, 1983 WL 31251, at *5 (Jan. 1, 1983). Frequent means from one-third to two-thirds of the time. Id. at *6.

[9] Plaintiff does not challenge the ALJ's RFC finding with respect to her shoulder.

see Ryan, 528 F.3d at 1198, the ALJ most reasonably intended to preclude Plaintiff from doing jobs that regularly required lifting items or performing maneuvers on a sustained basis above her left shoulder, not from ever reaching in an upward direction with her left arm (see AR 92-93 (Plaintiff testifying that for "four and a half/five months" of every six, her left-shoulder pain was alleviated by "shots"); AR 75, 77 (at hearing, Dr. Landau noting evidence of left-shoulder tendonitis impingement and recommending only occasional above-shoulder "work" on that side); AR 371-73 (on July 12, 2011, Dr. MacArthur noting "moderate impingement" but no resulting limitation); AR 390, 398 (on July 8, 2011, Dr. Hannani noting left-shoulder impingement but only slight limitation in range of motion and recommending no limitation on above-shoulder work); AR 565, 569 (on Feb. 8, 2011, Dr. Ralph Steiger finding reduced range of motion but no impingement and diagnosing tendinitis and possible rotator-cuff tear); AR 472 (on Jan. 20, 2007, imaging of left shoulder showed "small amount of soft tissue calcification . . . consistent with tendinitis" but "[n]o additional abnormality")).

Moreover, although the DOT is silent on just how much of the "reaching" required by the cashier-II and information-clerk jobs would require the use of both arms above shoulder level, presumably it is some smaller subset of "frequent." Indeed, of the tasks indicated in each position's DOT description, it's not evident that either involves above-shoulder reaching. See DOT 211.462-010 (describing cashier II's tasks as receiving, calculating, and recording cash payments; making change, cashing checks, and issuing receipts or tickets; preparing reports of

transactions; possibly operating ticket-dispensing machine or cash register with peripheral electronic data-processing equipment; selling sundries; and pressing numeric keys of computer corresponding to gasoline pump), available at 1991 WL 671840; DOT 237.367-018 (describing information clerk's tasks as providing train- or bus-travel information, including timetables and travel literature, and computing trip rates and discounts), available at 1991 WL 672187. These descriptions are not, therefore, inconsistent on their face with the ALJ's RFC finding. Cf. Huerta v. Astrue, No. EDCV 11–1868–MLG, 2012 WL 2865898, at *2 (C.D. Cal. July 12, 2012) (absent indication that tasks identified in DOT could not be performed sitting down or while maintaining comfortable head position, DOT description was not inconsistent with RFC, which permitted "some mobility" and required only that claimant be able to switch neck positions every 15 to 30 minutes).

As noted above, the ALJ presented a hypothetical to the VE that included all of Plaintiff's physical limitations, including her limitation to only occasional above-shoulder work with her left arm. (AR 96.) She specifically instructed the VE to indicate if any of his testimony deviated from the DOT. (AR 95.) The VE testified that a person with Plaintiff's limitations could perform the jobs of cashier II and information clerk. (AR 97.) And although Plaintiff's counsel questioned the VE and challenged his finding that Plaintiff could perform those positions, counsel did not raise the issue of Plaintiff's left-shoulder limitation. (See AR 98-101); cf. Solorzano v. Astrue, No. ED CV 11-369-PJW, 2012 WL 84527, at *6 (C.D. Cal. Jan. 20, 2012) (noting counsel's

duty to raise conflict with DOT at hearing). The ALJ was therefore entitled to rely on the VE's informed, specific, and uncontradicted explanation. See Bayliss, 427 F.3d at 1218.

Remand is not warranted on this basis.

VI. CONCLUSION

Consistent with the foregoing, and pursuant to sentence four of 42 U.S.C. § 405(g),[10] IT IS ORDERED that judgment be entered AFFIRMING the decision of the Commissioner, DENYING Plaintiff's request for remand, and DISMISSING this action with prejudice. IT IS FURTHER ORDERED that the Clerk serve copies of this Order and the Judgment on counsel for both parties.

DATED: April 30, 2015

JEAN ROSENBLUTH
U.S. Magistrate Judge

[10] This sentence provides: "The [district] court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing."