

1 L. Scott, a vocational expert. [AR 19].

2 On September 21, 2012, the ALJ issued a written decision denying plaintiff's application for
3 benefits. [AR 1]. The ALJ found that plaintiff had a severe impairment, schizophrenia, but that it did not
4 meet or equal an impairment included in the Listing of Impairments. [AR 21-22]. See 20 C.F.R. Pt. 404,
5 Subpt. P, App. 1. The ALJ determined that plaintiff retained the residual functional capacity ("RFC") to
6 perform a full range of work at all exertional levels but had nonexertional limitations restricting him to
7 simple and repetitive tasks. The ALJ found that plaintiff's RFC did not preclude performance of his past
8 relevant work as a warehouse worker. [AR 23, 26]. Alternatively, based on the testimony of the vocational
9 expert, the ALJ determined that plaintiff could perform alternative jobs that exist in significant numbers in
10 the national economy. [AR 26]. The ALJ therefore concluded that plaintiff was not disabled at any time
11 from March 21, 2011¹ through the date of his decision. The Appeals Council denied plaintiff's request for
12 review. [JS 2].

13 **Background**

14 Plaintiff was born in 1986, and he was twenty six years old when the ALJ issued his decision. [AR
15 35]. Plaintiff is single and lives with his mother and his cousin. [AR 36]. He completed the eleventh grade.
16 [AR 36].

17 The testimony and documentary evidence indicate that plaintiff has been treated for schizophrenia
18 and symptoms of mental illness such as hallucinations, paranoia, sluggish thought process, anxiety, hostility,
19 and aggressiveness. [AR 262]. In August 2010, claimant was admitted to Atascadero State Hospital
20 ("Atascadero") because he was found incompetent to stand trial on misdemeanor theft charges. [AR 147-
21 248]. He also had a history of arrest for possession of marijuana. [AR 247]. Plaintiff's admission records,
22 which were based on an interview with plaintiff, a review of medical records, and a mental status
23 examination, state that he had been psychiatrically hospitalized on three prior occasions, twice pursuant to
24 California Welfare and Institutions Code section 5150, and that he had a diagnosis of schizophrenia. [AR

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27 ¹ Although plaintiff alleges that he has been disabled since 2006, SSI benefits are payable
28 no earlier than the month following the month in which the application was filed. See 20 C.F.R.
§§ 416.330, 416.335. Therefore, the relevant date for determining plaintiff's disability status
was the date he filed his application for SSI benefits.

1 248]. The admissions records note that plaintiff's functional levels seemed to have deteriorated beginning
2 in high school, and that his mother reported significant behavioral changes starting at age 19. He was first
3 hospitalized for "tripping out," and after his first release from Arrowhead Mental Health, he resisted taking
4 his prescribed medication, Risperdal, because it made him sleepy and he felt he was being poisoned. [AR
5 248]. He suspected people of plotting against him and said that he did not trust anybody, including his
6 family, because he thought they were trying to poison him. [AR 248].

7 Plaintiff reported having last heard voices about two weeks before his admission at Atascadero. The
8 admitting psychiatrist observed that plaintiff was sullen, and detached. Plaintiff denied psychotic symptoms
9 but appeared suspicious, scanning the room and repeatedly checking over his shoulder when seated with
10 his back to the door. He also asked the doctor to repeat many questions. [AR 248]. His mental status
11 examination revealed that he was withdrawn, mistrustful, spoke softly with sparse language, had a flat
12 affect, appeared suspicious, and was distracted. [AR 251]. Plaintiff's admitting diagnoses were
13 "schizophrenia, paranoid, chronic" and "cannabis abuse." [AR 251]. His Global Assessment of Functioning
14 ("GAF") score on admission was 35, signifying some impairment in reality testing or communication, or
15 major impairment in several areas, such as work or school, family relations, judgment, thinking, or mood.
16 See American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders, Fourth
17 Edition ("DSM-IV") Multiaxial Assessment, 27-36 (rev. 2000); see also Garrison v. Colvin, 759 F.3d 995,
18 1003 n.4 (9th Cir. 2014) (noting that "[a]lthough GAF scores, standing alone, do not control determinations
19 of whether a person's mental impairments rise to the level of a disability (or interact with physical
20 impairments to create a disability), they may be a useful measurement.").

21 Plaintiff was treated at Atascadero from August 4, 2010 until his discharge on March 9, 2011.
22 Plaintiff's discharge report states that while hospitalized at Atascadero, he was started on various
23 medications, and his dosages were adjusted over time. He started showing improvement in his symptoms
24 in December 2010. [AR 262-263]. On December 23, 2010, plaintiff said that he found his medicine helpful.
25 He denied complaints, concerns, or medication side effects; engaged readily in the interview and with
26 clinical staff; and attended group activities. [AR 263]. On February 24, 2011, his treating clinicians
27 concluded that plaintiff was competent to stand trial provided he was on psychotropic medication. [AR 263,
28 266-267].

1 At the time of his discharge in March 2011, plaintiff was compliant with his medications, stable, and
2 was not exhibiting behavioral problems. His mental status examination was within normal limits except for
3 his insight and judgment, which were “fair.” [AR 263, 266]. Plaintiff’s discharge diagnoses were
4 “schizophrenia, paranoid type” and “cannabis dependence.” [AR 266]. His GAF score was 60, which,
5 according to the DSM-IV, signifies moderate symptoms or any moderate difficulty in social, occupational,
6 or school functioning. Plaintiff’s was prescribed three “psychotropic medications,” olanzapine², 40
7 milligrams daily; risperidone³, 6 milligrams daily; and Celexa (citalopram)⁴, 40 milligrams daily. He also
8 was prescribed vitamin D and acetaminophen as needed. [AR 266]. The doctor recommended that plaintiff
9 continue to be seen by a physician and psychiatrist for medication, lab work, and follow-up treatment. [AR
10 266]. Plaintiff began outpatient follow-up treatment at Ontario Community Counseling in April 2011 and
11 was seen regularly at that clinic through April 2012. [AR 292-304].

12 In May 2011, Dr. Khan, a nonexamining state agency physician, completed a mental residual
13 functional capacity assessment. [AR 276]. Dr. Khan opined that plaintiff can work 40 hours a week, can
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15 ² Olanzapine “is used to treat the symptoms of schizophrenia (a mental illness that causes
16 disturbed or unusual thinking, loss of interest in life, and strong or inappropriate emotions) in
17 adults and teenagers 13 years of age and older. . . . Olanzapine is in a class of medications called
18 atypical antipsychotics. It works by changing the activity of certain natural substances in the
19 brain.” See U. S. Nat’l Library of Medicine and Nat’l Instit. of Health, MedlinePlus website,
Olanzapine, available at <http://www.nlm.nih.gov/medlineplus/druginfo/meds/a601213.html> (last
visited June 24, 2015).

20 ³ Risperidone “is used to treat the symptoms of schizophrenia (a mental illness that causes
21 disturbed or unusual thinking, loss of interest in life, and strong or inappropriate emotions) in
22 adults and teenagers 13 years of age and older. . . . Risperidone is in a class of medications called
23 atypical antipsychotics. It works by changing the activity of certain natural substances in the
24 brain.” U.S. Nat’l Library of Medicine and Nat’l Instit. of Health, MedlinePlus website,
Risperidone, available at <http://www.nlm.nih.gov/medlineplus/druginfo/meds/a694015.html> (last
visited June 24, 2015).

25 ⁴ Celexa (a brand of citalopram) “is used to treat depression. Citalopram is in a class of
26 antidepressants called selective serotonin reuptake inhibitors (SSRIs). It is thought to work by
27 increasing the amount of serotonin, a natural substance in the brain that helps maintain mental
28 balance.” U.S. Nat’l Library of Medicine and Nat’l Instit. of Health, MedlinePlus website,
Citalopram, <http://www.nlm.nih.gov/medlineplus/druginfo/meds/a699001.html> (last visited June
24, 2015).

1 relate to coworkers and supervisors, and can maintain pace and persistence, but that he must abstain from
2 alcohol and drugs. [AR 276]. Dr. Khan noted that plaintiff can sustain simple one or two step repetitive tasks
3 but would most likely have difficulty working with the general public, and thus recommended that plaintiff
4 be limited to non-public work settings with limited public contact. [AR 288-289].

5 Plaintiff testified that he does not have difficulty with his personal needs like showering, and that
6 he is able to help with household chores such as emptying the trash, washing dishes, doing laundry, grocery
7 shopping, and carrying groceries into the house. [AR 36-37]. He also watches television and plays video
8 games. [AR 36]. He said that he is able to sit for periods of 10 to 15 minutes, after which he gets “irritated”
9 and either goes to the restroom or keeps getting up and moving. [AR 37]. He testified that he can stand for
10 about 10 minutes, can walk about a mile, and can lift 100 pounds. [AR 37-38]. Plaintiff said that he has
11 memory problems, gets easily distracted, and needed to be reminded to do his chores. [AR 42-43]. Plaintiff
12 drank alcohol “about a couple days ago” and last smoked marijuana “[a]bout eight months ago.” [AR 40].

13 Plaintiff testified that he started hearing voices and seeing things eleven years earlier, and that he
14 has been taking Risperdal and Celexa for his symptoms. [AR 41]. He explained that he hears voices almost
15 every day but that he could not remember what they said. [AR 40-41]. He also sees things (such as a bird
16 that “disappears”), but not very often. [AR 42].

17 Plaintiff testified that worked as a barber for a year and a half but left that job because “all of a
18 sudden” he “didn’t want to work no more.” [AR 39]. He also worked at a warehouse as a forklift driver.
19 He said that job ended because he “didn’t have transportation” to get to and from work. [AR 38-39].

20 Plaintiff’s mother testified that plaintiff talked to himself while working and at home and would
21 laugh loudly, distracting others. [AR 44]. She further stated that he must be reminded all the time to do his
22 chores, that he can forget what he is doing in the middle of a task, and that she has to keep an eye on him
23 because he sometimes blacks out. [AR 44-45].

24 During the hearing, the vocational expert testified that a hypothetical person with plaintiff’s
25 vocational profile whose RFC matched that found by the ALJ would be able to work as a warehouse worker
26 but not as a forklift driver or barber as those jobs involve a higher skill level. [AR 46-47]. The vocational
27 expert also testified that such a person could perform other unskilled jobs available in significant numbers
28 in the national economy. [AR 47-48]. If, however, the person’s mental impairments prevented him from

1 working a full eight-hour day and resulted in his being off task for 25 percent of the day, the vocational
2 expert testified that the person would not be able to perform plaintiff's past work, and there would be no
3 jobs available in the national economy that he could perform. [AR 48].

4 **Standard of Review**

5 The Commissioner's denial of benefits should be disturbed only if it is not supported by substantial
6 evidence or is based on legal error. Stout v. Comm'r, Soc. Sec. Admin., 454 F.3d 1050, 1054 (9th Cir.
7 2006); Thomas v. Barnhart, 278 F.3d 947, 954 (9th Cir. 2002). "Substantial evidence" means "more than
8 a mere scintilla, but less than a preponderance." Bayliss v. Barnhart, 427 F.3d 1211, 1214 n.1 (9th Cir.
9 2005). "It is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."
10 Burch v. Barnhart, 400 F.3d 676, 679 (9th Cir. 2005) (internal quotation marks omitted). The court is
11 required to review the record as a whole and to consider evidence detracting from the decision as well as
12 evidence supporting the decision. Robbins v. Soc. Sec. Admin., 466 F.3d 880, 882 (9th Cir. 2006);
13 Verduzco v. Apfel, 188 F.3d 1087, 1089 (9th Cir. 1999). "Where the evidence is susceptible to more than
14 one rational interpretation, one of which supports the ALJ's decision, the ALJ's conclusion must be upheld."
15 Thomas, 278 F.3d at 954 (citing Morgan v. Comm'r of Soc. Sec. Admin., 169 F.3d 595, 599 (9th Cir.
16 1999)).

17 **Statement of Disputed Issues**

18 The disputed issues are whether the ALJ properly considered the testimony of plaintiff and his
19 mother and made proper credibility findings. [JS 3].

20 **Discussion**

21 **Lay witness testimony**

22 Plaintiff contends that the ALJ erred in rejecting the testimony by plaintiff's mother, Michelle Glenn,
23 by failing to give reasons germane to her testimony. [JS 3, 10].

24 The ALJ wrote that Ms. Glenn testified that plaintiff "had trouble working because he talked to
25 himself and distracted others. She reported the claimant needed reminders. Ms. Glenn alleged the claimant
26 was easily agitated and would black out." [JS 3].

27 The ALJ found that Ms. Glenn's statements regarding the intensity, persistence and limiting effects
28 of plaintiff's symptoms were less than fully credible. [AR 24]. The ALJ noted that Ms. Glenn is not a

1 medical professional, and that her opinion on issues such as the severity of plaintiff's symptoms is far less
2 persuasive on those issues than the opinions of medical professionals. [AR 24]. Further, the ALJ concluded
3 that Ms. Glenn was not unbiased because she had an emotional and financial interest in ensuring that
4 plaintiff received benefits in order to increase the household income. [AR 24]. Lastly, the ALJ stated that
5 Ms. Glenn's statements are not supported by the clinical or diagnostic medical evidence. [AR 24].

6 While an ALJ must take into account lay witness testimony about a plaintiff's symptoms, the ALJ
7 may discount that testimony by providing "reasons that are germane to each witness." Greger v. Barnhart,
8 464 F.3d 968, 972 (9th Cir. 2006) (quoting Dodrill v. Shalala, 12 F.3d 915, 919 (9th Cir. 1993)). Germane
9 reasons for rejecting a lay witness's testimony include inconsistencies between that testimony and the
10 medical evidence, inconsistencies between that testimony and the claimant's presentation to treating
11 physicians during the period at issue, the claimant's failure to participate in prescribed treatment, and the
12 possibility that the lay witness was "influenced by [a] desire to help" the claimant due to their "close
13 relationship." Greger, 464 F.3d at 972; see Bayliss, 427 F.3d at 1218; Lewis v. Apfel, 236 F.3d 503, 511
14 (9th Cir. 2001).

15 Lay witness testimony can be competent evidence regarding the severity of a claimant's symptoms.
16 See 20 C.F.R. §§ 404.1513(d), 416.913(d) (providing that lay witness testimony may be introduced "to show
17 the severity of [plaintiff's] impairment(s) and how it affects [his] ability to work"); Dodrill, 12 F.3d at
18 918-919 ("[F]riends and family members in a position to observe a plaintiff's symptoms and daily activities
19 are competent to testify as to her condition."). The ALJ may not disregard such testimony solely because
20 it is not evidence from a medical professional. See Bruce v. Astrue, 557 F.3d 1113, 1116 (9th Cir. 2009)
21 (holding that although the claimant's wife was "not a vocational or medical expert, [she] was not
22 disqualified from rendering an opinion as to how her husband's condition affects his ability to perform basic
23 work activities").

24 Although the ALJ erred in rejecting Ms. Glenn's testimony as to plaintiff's limitations merely
25 because Ms. Glenn is not a medical professional, any error was harmless because the ALJ articulated
26 additional germane reasons for discrediting her testimony. See Ludwig v. Astrue, 681 F.3d 1047, 1053-
27 1055 (9th Cir. 2012) (holding that an ALJ's error was harmless where the claimant did not show a
28 "substantial likelihood of prejudice" due to the error) (citing McLeod v. Astrue, 640 F.3d 881, 886-888 (9th

1 Cir. 2011)); Molina, 674 F.3d at 1121-1122 (holding that an ALJ’s error in failing adequately to discuss lay
2 testimony was harmless where it was “inconsequential to the ultimate nondisability determination”). First,
3 the ALJ permissibly found Ms. Glenn’s testimony less than fully credible because it was inconsistent with
4 the medical evidence. [AR 24]. The ALJ found that there were no medical records regarding any of
5 plaintiff’s alleged physical limitations, and he rationally inferred that the absence of such records was
6 inconsistent with the alleged severity of those limitations. [AR 24]. See Bayliss, 427 F.3d at 1218 (stating
7 that an “[a]n ALJ need only give germane reasons for discrediting the testimony of lay witnesses” and that
8 “[i]nconsistency with medical evidence is one such reason,” and holding that the ALJ permissibly rejected
9 lay testimony that was inconsistent with the medical evidence). Regarding plaintiff’s alleged mental
10 symptoms, the ALJ stated that plaintiff’s discharge records from Atascadero and his post-discharge
11 treatment records showed that plaintiff had improved with treatment, was stable on medication, and denied
12 major problems. [AR 25]. The ALJ concluded that the medical evidence undermined the credibility of Ms.
13 Glenn’s testimony to the extent that she suggested that plaintiff’s mental impairments render him totally
14 unable to work. [AR 25].

15 Plaintiff acknowledges that the medical evidence shows that he “respond[ed] well to medication.”
16 [JS 9]. Citing an April 2011 treatment note, however, plaintiff contends that he continued to complain of
17 auditory hallucinations, paranoia, and forgetting things easily, and that the ALJ unjustifiably relied on the
18 medical evidence to discredit Ms. Glenn’s testimony. [JS 9]. Plaintiff’s treatment notes indicate that his
19 condition during the first few months of outpatient treatment following his discharge from Atascadero was
20 somewhat more volatile than it had been on discharge. Those notes also reveal, however, that plaintiff
21 initially presented “need[ing] medications” because he had not established outpatient care, that he had two
22 missed appointments in August 2011, and that his medication compliance on August 30, 2011 was “poor.”
23 [AR 298-310]. Beginning in September 2011, however, plaintiff consistently exhibited “good” medication
24 compliance, and although his treating psychiatrist wrote that plaintiff needed ongoing treatment and still
25 had some paranoia, plaintiff was observed to be “fairly stable” on his medications, denied major problems,
26 and exhibited few other signs or symptoms of schizophrenia. [See AR 292-297]. Therefore, the ALJ
27 permissibly relied on the medical evidence to reject Ms. Glenn’s testimony to the extent it was inconsistent
28 with an RFC for simple, repetitive tasks. See Lewis, 236 F.3d at 511 (“One reason for which an ALJ may

1 discount lay testimony is that it conflicts with medical evidence.”).

2 Second, the ALJ noted that Ms. Glenn was not unbiased because she had an emotional and financial
3 interest in ensuring that plaintiff, who lived with her, received benefits. [AR 24]. Standing alone, a
4 plaintiff's financial motivation for obtaining benefits is not a valid reason for discrediting the testimony of
5 plaintiff or family members. See Ratto v. Sec'y, Dep't of Health & Human Servs., 839 F. Supp. 1415,
6 1428-1429 (D. Or. 1993) (“If the desire or expectation of obtaining benefits were by itself sufficient to
7 discredit a plaintiff's testimony, then no plaintiff (or their spouse, or friends, or family) would ever be found
8 credible.”). However, an ALJ does not have to ignore the possibility that financial concerns or a “close
9 relationship” with plaintiff influenced a lay witness's testimony. Greger, 464 F.3d at 972. The ALJ
10 permissibly considered plaintiff's mother's financial and familial interest in helping her son obtain benefits,
11 along with other factors, in evaluating the credibility of her statements.

12 The ALJ articulated germane reasons for finding the testimony of plaintiff's mother less than fully
13 credible.

14 **Credibility finding**

15 Plaintiff contends that the ALJ improperly assessed his subjective symptom testimony. [JS 16,20].

16 If the record contains objective evidence of an underlying physical or mental impairment that is
17 reasonably likely to be the source of a claimant’s subjective symptoms, the ALJ is required to consider all
18 subjective testimony as to the severity of the symptoms. Moisa v. Barnhart, 367 F.3d 882, 885 (9th Cir.
19 2004); Bunnell v. Sullivan, 947 F.2d 341, 345 (9th Cir. 1991) (en banc); see also 20 C.F.R. §§ 404.1529(a),
20 416.929(a) (explaining how pain and other symptoms are evaluated). Absent affirmative evidence of
21 malingering, the ALJ must then provide specific, clear and convincing reasons for rejecting a claimant’s
22 subjective complaints. Vasquez v. Astrue, 547 F.3d 1101, 1105 (9th Cir. 2008); Carmickle v. Comm’r, Soc.
23 Sec. Admin., 533 F.3d 1155, 1160-1161 (9th Cir. 2008); Moisa, 367 F.3d at 885. “In reaching a credibility
24 determination, an ALJ may weigh inconsistencies between the claimant's testimony and his or her conduct,
25 daily activities, and work record, among other factors.” Bray v. Comm’r of Social Sec. Admin., 554 F.3d
26 1219, 1221, 1227 (9th Cir. 2009); Light v. Soc. Sec. Admin., 119 F.3d 789, 792 (9th Cir.1997). The ALJ's
27 credibility findings “must be sufficiently specific to allow a reviewing court to conclude the ALJ rejected
28 the claimant's testimony on permissible grounds and did not arbitrarily discredit the claimant's testimony.”

1 Moisa, 367 F.3d at 885. If the ALJ's interpretation of the claimant's testimony is reasonable and is
2 supported by substantial evidence, it is not the court's role to "second-guess" it. Rollins v. Massanari, 261
3 F.3d 853, 857 (9th Cir. 2001).

4 In evaluating subjective symptom testimony, the ALJ must consider "all of the evidence presented,"
5 including the following factors: (1) the claimant's daily activities; (2) the location, duration, frequency, and
6 intensity of pain and other symptoms; (3) precipitating and aggravating factors, such as movement, activity,
7 and environmental conditions; (4) the type, dosage, effectiveness, and adverse side effects of any pain
8 medication; (5) treatment, other than medication, for relief of pain or other symptoms; (6) any other
9 measures used by the claimant to relieve pain or other symptoms; and (7) other factors concerning the
10 claimant's functional restrictions due to such symptoms. See 20 C.F.R. §§ 404.1529(c)(3), 416.929(c)(3);
11 see also Social Security Ruling ("SSR") 96-7p, 1996 WL 374186, at *3 (clarifying the Commissioner's
12 policy regarding the evaluation of pain and other symptoms). The ALJ also may employ "ordinary
13 techniques of credibility evaluation," considering such factors as (8) the claimant's reputation for
14 truthfulness; (9) inconsistencies within the claimant's testimony, or between the claimant's testimony and
15 the claimant's conduct; (10) a lack of candor by the claimant regarding matters other than the claimant's
16 subjective symptoms; (11) the claimant's work record; and (12) information from physicians, relatives, or
17 friends concerning the nature, severity, and effect of the claimant's symptoms. See Light, 119 F.3d at 792;
18 Fair v. Bowen, 885 F.2d 597, 604 n.5 (9th Cir. 1989).

19 The ALJ provided clear and convincing reasons supporting his credibility finding. The ALJ found
20 that plaintiff's daily activities did not support a finding that his subjective symptoms precluded him from
21 work requiring simple, repetitive tasks. [AR 24]. The ALJ pointed to plaintiff's testimony that he could
22 lift 100 pounds, went to the store to shop, helped with household chores, and spent much of the day
23 watching television and playing video games. [AR 24, 37-38]. The ALJ permissibly concluded that some
24 of the physical and mental abilities and social interactions required to perform these activities are the same
25 as those necessary for performing work limited to simple, repetitive tasks. [AR 23]. Plaintiff's admitted
26 ability to perform a fairly wide range of routine daily activities independently and without reporting
27 significant interference or ill-effects from his allegedly disabling symptoms was one factor, among others,
28 that justified the ALJ's credibility determination. See Molina v. Astrue, 674 F.3d 1104, 1113 (9th Cir.

1 2012) (noting that even when a plaintiff’s daily activities “suggest some difficulty functioning, they may
2 be grounds for discrediting plaintiff’s testimony to the extent that they contradict claims of a totally
3 debilitating impairment”); Burch, 400 F.3d at 679 (holding that the ALJ did not err in finding that plaintiff’s
4 ability to care for her own personal needs, cook, clean, shop, interact with family, and manage her finances
5 suggested that plaintiff “was quite functional” and undermined her credibility).

6 Plaintiff argues that the ALJ improperly discredited his testimony based on his daily activities
7 because he does not need to be “utterly incapacitated” to be disabled. [JS 18 (quoting Vertigan v. Halter,
8 260 F.3d 1044, 1049-1050 (9th Cir. 2001))]. A claimant “need not vegetate in a dark room in order to be
9 eligible for benefits”; nonetheless, “the ALJ may discredit a plaintiff’s testimony when plaintiff reports
10 participation in everyday activities indicating capacities that are transferable to a work setting. Even where
11 those activities suggest some difficulty functioning, they may be grounds for discrediting plaintiff’s
12 testimony to the extent that they contradict claims of a totally debilitating impairment.” Molina, 674 F.3d
13 at 1112-1113 (internal quotation marks and citations omitted). The ALJ reasonably concluded that the
14 physical and mental capabilities required to perform plaintiff’s daily activities undermine his subjective
15 allegations of total disability. [AR 24].

16 The ALJ also found that plaintiff’s work history diminished his credibility. [AR 24]. The ALJ noted
17 that plaintiff said that he had stopped working at one job because he did not have transportation. [AR 24,
18 39]. Plaintiff also said that he stopped working at his other previous job because he did not want to work
19 anymore. [AR 24, 39]. Both of these reasons are unrelated to plaintiff’s medical condition. [AR 24]. A
20 claimant's prior work record and efforts to work may be considered in assessing credibility. See 20 C.F.R.
21 §§ 416.929(a), (c)(3) (stating that the Commissioner will consider a plaintiff’s efforts to work and prior work
22 record in evaluating symptoms); SSR 96-7p, 1996 WL 374186, at *5 (stating that adjudicator may consider
23 “[s]tatements and reports from the individual and from treating or examining physicians or psychologists
24 and other persons about the individual's medical history, treatment and response, prior work record and
25 efforts to work, daily activities, and other information concerning the individual's symptoms and how the
26 symptoms affect the individual's ability to work”); Schaal v. Apfel, 134 F.3d 496, 502 (2nd Cir. 1998)
27 (explaining that a poor work history may be considered in evaluating a claimant's credibility).

28 The ALJ also permissibly concluded that the absence of medical evidence regarding any significant

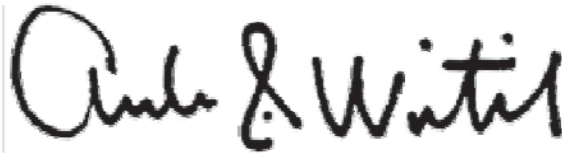
1 physical problems or limitations is inconsistent with the alleged severity of plaintiff's physical functional
2 limitations. [AR 24]. The ALJ is allowed to consider the lack of objective medical evidence corroborating
3 the alleged severity of plaintiff's subjective symptoms. See Burch, 400 F.3d at 681 ("Although lack of
4 medical evidence cannot form the sole basis for discounting pain testimony, it is a factor that the ALJ can
5 consider in his credibility analysis."). As to plaintiff's alleged mental symptoms, the ALJ pointed to the
6 medical evidence from Atascadero and his post-discharge medical records showing that his treatment had
7 been "generally successful in controlling those mental symptoms," as described more particularly above.
8 [AR 24-25]. The ALJ permissibly inferred that the objective medical evidence did not corroborate the
9 alleged severity of plaintiff's subjective complaints, but instead was consistent with an RFC for a full range
10 of work consisting of simple, repetitive tasks.

11 The ALJ articulated clear and convincing reasons, based on substantial evidence, for rejecting the
12 alleged severity of plaintiff's subjective complaints.

13 Conclusion

14 For the reasons stated above, the Commissioner's decision is supported by substantial evidence and
15 is free of reversible legal error. Accordingly, the Commissioner's decision is **affirmed**.

16
17 June 29, 2015



18
19 ANDREW J. WISTRICH
United States Magistrate Judge