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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NEILISA JANE SIDES,
Plaintiff,
v.
CAROLYN W. COLVIN,
COMMISSIONER OF SOCIAL
SECURITY,
Defendant.

Case No. ED CV 14-2535 JCG
**MEMORANDUM OPINION AND
ORDER**

Neilisa Jane Sides (“Plaintiff”) challenges the Social Security Commissioner’s decision denying her application for disability benefits. Two issues are presented for decision here:

1. Whether the Administrative Law Judge (“ALJ”) properly rejected Plaintiff’s credibility (*see* Joint Stip. at 4, 17-20); and
2. Whether the ALJ properly evaluated the medical evidence, in particular, Plaintiff’s treating physician’s medical opinion and evidence of Plaintiff’s migraine headaches (*see id.* at 4-11).

The Court addresses Plaintiff’s contentions below, and finds that reversal is not warranted.

1 A. The ALJ Properly Assessed Plaintiff’s Credibility

2 Plaintiff contends that the ALJ improperly assessed her credibility. (See Joint
3 Stip. at 4, 17-20.)

4 As a rule, an ALJ can reject a claimant’s subjective complaints by “expressing
5 clear and convincing reasons for doing so.” *Benton ex rel. Benton v. Barnhart*, 331
6 F.3d 1030, 1040 (9th Cir. 2003). “General findings are insufficient; rather, the ALJ
7 must identify what testimony is not credible and what evidence undermines a
8 claimant’s complaints.” *Lester v. Chater*, 81 F.3d 821, 834 (9th Cir. 1995) (citations
9 omitted).

10 Here, the ALJ provided at least six valid reasons for rejecting Plaintiff’s
11 credibility.

12 First, Plaintiff admitted she sought work after the date she alleged she became
13 unable to work. (Administrative Record (“AR”) at 15, 32); *Lenhart v. Astrue*, 252 F.
14 App’x 787, 789 (9th Cir. 2007) (ALJ reasonably determined claimant exaggerated
15 symptoms in part because he applied for a job and collected unemployment benefits);
16 *Copeland v. Bowen*, 861 F.2d 536, 542 (9th Cir. 1988) (ALJ properly discredited the
17 claimant’s testimony in part because he held himself out as available for work).

18 Second, Plaintiff said she had no complications with her knees after her
19 replacement surgeries, and now requires “[j]ust regular check ups.” (AR at 15, 36,
20 395); *Lenhart*, 252 F. App’x at 789 (ALJ properly discredited claimant in part because
21 surgery was generally successful in relieving symptoms).

22 Third, Plaintiff admitted that counseling and medication were effective in
23 treating her mental symptoms, and medication also helped her incontinence and other
24 impairments. (AR at 15, 35-36, 38, 40, 43, 50, 502); see *Tommasetti v. Astrue*, 533
25 F.3d 1035, 1040 (9th Cir. 2008) (ALJ properly rejected claimant’s subjective
26 complaints because she responded favorably to conservative treatment of therapy and
27 medication).

1 Fourth, Plaintiff's daily activities – including being able to tend to her own
2 personal needs, drive, shop in stores and online, cook, clean, complete household
3 chores, and handle finances – are inconsistent with her allegation of complete
4 disability. (AR at 14-17, 226, 511); *see Fair v. Bowen*, 885 F.2d 597, 604 (9th Cir.
5 1989) (in discounting claimant credibility, ALJ may properly rely on daily activities
6 inconsistent with claim of disability, including claimant's ability to care for personal
7 needs, drive, shop, and perform routine household chores).

8 Fifth, the ALJ observed that, despite Plaintiff's allegations of an inability to
9 concentrate, she could process questions without difficulty, respond without delay, and
10 pay attention throughout the hearing. (AR at 16, 28-54); *see Orn v. Astrue*, 495 F.3d
11 625, 639 (9th Cir. 2007) (ALJ's "observations of a claimant's functioning" at the
12 hearing are permissible as part of the overall credibility assessment but "may not form
13 the sole basis for discrediting a person's testimony").

14 Sixth, Plaintiff's allegations of severe physical and mental symptoms
15 contradicted the objective medical evidence. (AR at 16); *see Rollins v. Massanari*, 261
16 F.3d 853, 856-57 (9th Cir. 2001) (inconsistencies with objective evidence, when
17 combined with other factors, are valid reasons for rejecting a claimant's testimony).
18 For example: (1) treatment notes indicated Plaintiff's left knee was doing "fine" and
19 that she had no problems after a stroke; (2) x-rays of both knees showed excellent
20 alignment and fixation of prosthesis; (3) a CT scan of Plaintiff's head was normal; and
21 (4) treatment notes indicated Plaintiff's mood improved with medication and therapy
22 sessions, her thoughts were logical and her memory was intact, and she denied
23 hallucinations. (AR at 16-17, 395, 426, 514, 517-18, 522, 544, 551, 572.)

24 Thus, the ALJ properly discounted Plaintiff's credibility.

25 B. The ALJ Properly Evaluated the Medical Evidence

26 1. Treating Physician's Opinion

27 Next, Plaintiff contends that the ALJ improperly rejected the opinion of her
28 treating psychiatrist, Dr. Marcia Hudson. (*See Joint Stip.* at 4-9.)

1 As a general rule, “[i]f the ALJ wishes to disregard the opinion of the treating
2 physician, he or she must make findings setting forth specific, legitimate reasons for
3 doing so that are based on substantial evidence in the record.” *Murray v. Heckler*, 722
4 F.2d 499, 502 (9th Cir. 1983); *Lester*, 81 F.3d at 830.

5 Here, the ALJ properly rejected Dr. Hudson’s opinion that Plaintiff would miss
6 more than four days of work a month, for three reasons.

7 First, Dr. Hudson’s conclusions regarding Plaintiff’s “mental residual functional
8 capacity” (“RFC”) and her “inability to work” are issues reserved for the
9 Commissioner. (AR at 18, 575, 578-79); see *Lynch Guzman v. Astrue*, 365 F. App’x
10 869, 870 (9th Cir. 2010) (a claimant’s RFC “is an administrative finding reserved to
11 the Commissioner”); 20 C.F.R. §§ 404.1527(d)(1), 416.927(d)(1) (statements by a
12 medical source that a claimant is . . . “unable to work” “are not medical opinions, . . .
13 but are, instead, opinions on issues reserved to the Commissioner”).

14 Second, Dr. Hudson’s opinion contradicted the objective medical evidence,
15 discussed above. (AR at 18); see *Batson v. Comm’r Soc. Sec. Admin.*, 359 F.3d 1190,
16 1197 (9th Cir. 2004) (“[I]t was permissible for the ALJ to give [the treating physician’s
17 opinion] minimal evidentiary weight, in light of the objective medical evidence and the
18 opinions and observations of other doctors.”).

19 Third, Dr. Hudson’s opinion contradicted Plaintiff’s admitted daily activities,
20 discussed above. (AR at 18); see *Colter v. Colvin*, 554 F. App’x 594, 595 (9th Cir.
21 2014) (ALJ properly disregarded threatening physicians’ opinions because assessments
22 were inconsistent with claimant’s own descriptions of her daily activities).

23 Thus, the ALJ properly rejected Dr. Hudson’s opinion.

24 2. Migraine Headaches

25 Finally, Plaintiff contends that the ALJ found that she had the severe impairment
26 of migraine headaches, but failed to impose any limitation based on this impairment in
27 the RFC. (See Joint Stip. at 9-11.)

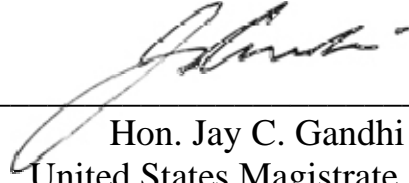
1 “If an ALJ finds a severe impairment at step two, that impairment must be
2 considered in the remaining steps of the sequential analysis.” *Bray v. Comm’r Soc.*
3 *Sec. Admin.*, 554 F.3d 1219, 1228 (9th Cir. 2009). Specifically, when the ALJ
4 determines a claimant’s RFC between steps three and four, the ALJ shall consider the
5 combined impact of all of a claimant’s medically cognizable impairments on the
6 claimant’s ability to work. *See* 20 C.F.R. §§ 404.1523, 416.923; *see also Macri v.*
7 *Chater*, 93 F.3d 540, 545 (9th Cir. 1996). But unlike the analysis at step two, where
8 the ALJ examines the degree of limitation, the RFC is the most a claimant can do,
9 “*despite* [her] limitations.” 20 C.F. .R. §§ 404.1545(a)(1), 416.945(a)(1) (emphasis
10 added).

11 Here, first, in fashioning the RFC the ALJ properly “considered all symptoms”
12 and specifically found Plaintiff was able to (1) understand, remember, and carry out
13 only simple job instructions, (2) maintain attention and concentration to perform only
14 simple, routine, and repetitive tasks, and (3) perform unskilled work. (AR at 15, 20.)
15 Plaintiff does not explain how this fails to account for any limitations from her
16 headaches. *See Mitchell v. Astrue*, 2010 WL 519703, at *6 (E.D. Cal. Feb. 12, 2010)
17 (argument – that because ALJ found severe impairment at step two, impairment must
18 have imposed limitations that should have been included in RFC – “fails because it
19 tries to impose a step two finding on the RFC determination”), *aff’d*, 438 F. App’x 617
20 (9th Cir. 2011).

21 Second, Plaintiff points to no objective evidence of any specific functional
22 limitation due to her headaches that renders her incapable of work. *See Hunt v. Colvin*,
23 954 F. Supp. 2d 1181, 1190 (W.D. Wash. 2013) (treatment notes referencing
24 headaches and migraine medications did not establish any specific functional
25 limitations caused by claimant’s headaches).

1 Based on the foregoing, **IT IS ORDERED THAT** judgment shall be entered
2 **AFFIRMING** the decision of the Commissioner denying benefits.

3
4 DATED: September 08, 2015

5 
6 Hon. Jay C. Gandhi
United States Magistrate Judge

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9 **This Memorandum Opinion and Order is not intended for publication. Nor is it**
10 **intended to be included or submitted to any online service such as**
11 **Westlaw or Lexis.**

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