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

BEVERLY ANN COLVIN,

Plaintiff,

v.

ANDREW M. SAUL, Commissioner
of Social Security,

Defendant.

Case No. 5:18-cv-00982-FMO (MAA)

**ORDER ACCEPTING FINDINGS
AND RECOMMENDATION OF
UNITED STATES MAGISTRATE
JUDGE**

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Complaint, the Parties’ Joint Stipulation (“Joint Stip.”), the records herein, and the Report and Recommendation of the United States Magistrate Judge (“Report”). Further, the Court has engaged in a *de novo* review of the portions of the Report to which Petitioner has raised objections (“Objections”). For the reasons stated below, the Objections are overruled.

Plaintiff objects that the Report failed to recognize legal error by the Administrative Law Judge (“ALJ”) on the issue of the examining psychiatrist’s opinion. (Objections at 2-4.) According to Plaintiff, the ALJ committed legal error when he “adopted” the examining psychiatrist’s opinion that Plaintiff would have

1 moderate limitations in certain areas of mental functioning yet later failed to
2 incorporate those limitations in the remainder of his findings without any
3 explanation. (*Id.* at 2-3.) Plaintiff misreads the ALJ’s opinion. Rather than
4 adopting the examining physician’s opinion in full, the ALJ assigned it only
5 “partial weight” after explaining that it was inconsistent with evidence in the case
6 record, including evidence that Plaintiff was negative for conditions such as
7 anxiety, depression, and sleep disturbance, and had generally unremarkable mental
8 status examinations. (Report at 6-8.) Thus, the ALJ adequately explained, with
9 specific and legitimate reasons based on substantial evidence, why the examining
10 psychiatrist’s opinion about Plaintiff’s limitations in mental functioning would not
11 be adopted. Even in her Objections, Plaintiff does not challenge the legal
12 sufficiency of these reasons.

13 Plaintiff also objects that the Report failed to recognize that the ALJ, in
14 assessing Plaintiff’s subjective symptom allegations, ignored Plaintiff’s allegations
15 of chronic pain. (Objections at 6.) To the contrary, the Report reviewed the ALJ’s
16 thorough assessment Plaintiff’s pain allegations and the reasons why the ALJ
17 declined to credit them: Plaintiff’s pain allegations were inconsistent with
18 numerous objective findings from the medical record, evidence about her activities
19 of daily living, and evidence of medication non-compliance. (Report at 13-17.)
20 These reasons were clear and convincing reasons based on substantial evidence.

21 Plaintiff also objects that Report failed to recognize that the ALJ stated he
22 would, but apparently did not, consult evidence from Plaintiff’s earlier disability
23 applications involving her carpal tunnel syndrome. (Objections at 8.) Here,
24 medical evidence from Plaintiff’s earlier disability applications relating to carpal
25 tunnel syndrome may have had only limited relevance, see Carmickle v.
26 Commissioner, Social Sec. Admin., 533 F.3d 1155, 1165 (9th Cir. 2008) (“Medical
27 opinions that predate the alleged onset of disability are of limited relevance.”),
28

1 because more recent evidence showed no indication of carpal tunnel syndrome.
2 (AR 334, 336.) Thus, the ALJ did not err in neglecting to consider the older carpal
3 tunnel evidence. Finally, even assuming it was error not to consider the older
4 carpal tunnel evidence, the error was harmless because the more recent evidence in
5 the record showed no indication of carpal tunnel syndrome. (Report at 13, 16, 17.);
6 see, e.g., Baker v. Berryhill, 720 F. App'x 352, 355 (9th Cir. 2017) (finding
7 harmless error in an ALJ's failure to consider evidence that predated an alleged
8 onset date); Williams v. Astrue, 493 F. App'x 866, 869 (9th Cir. 2012) (finding
9 harmless error in an ALJ's failure to consider evidence predating an alleged onset
10 date where more recent evidence qualified as substantial evidence supporting the
11 ALJ's findings); see also Warzecha v. Berryhill, 692 F. App'x 859, 860 (9th Cir.
12 2017) (finding no legal error where an ALJ failed to develop the record with
13 medical evidence predating an alleged onset date); Burke v. Colvin, 649 F. App'x
14 495, 496 (9th Cir. 2016) (same).

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16 **ORDER**

17 IT IS ORDERED that (1) Plaintiff's Objections are overruled, (2) the Report
18 is accepted, and (3) Judgment shall be entered affirming the final decision of the
19 Commissioner of Social Security and dismissing this action with prejudice.

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21 DATED: August 12, 2019

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24 /s/ FERNANDO M. OLGUIN
25 UNITED STATES DISTRICT JUDGE
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