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

HEATHER MARY S.,)	Case No. EDCV 19-1187-AB (JPR)
)	
Plaintiff,)	
)	ORDER ACCEPTING FINDINGS AND
v.)	RECOMMENDATIONS OF U.S.
)	MAGISTRATE JUDGE
ANDREW SAUL, Commissioner)	
of Social Security,)	
)	
Defendant.)	
)	
)	

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Complaint, Joint Stipulation, Administrative Record, and all other records on file as well as the Report and Recommendation of U.S. Magistrate Judge. On March 9, 2021, Plaintiff filed Objections to the R. & R., in which she mostly simply repeats arguments from the Joint Stipulation. Defendant filed a response to the Objections on March 19, 2021.

Plaintiff reiterates that the ALJ allegedly erred in evaluating psychiatrist Julie Wareham's opinions. (See Objs. at 2-4.) As the Magistrate Judge found, however, the ALJ correctly discounted Dr. Wareham's opinions as devoid of any discussion of Plaintiff's functional limitations, among other reasons. (R. &

1 R. at 21.) Plaintiff argues that "Dr. Wareham's opinion
2 addressed Plaintiff's specific ability to adhere to a work
3 schedule, maintain reliability, and complete work tasks in light
4 of her classic bipolar symptomology." (Objs. at 2 (citing AR
5 749, 906).) But Dr. Wareham merely opined in the written
6 statement and treatment note cited that the stress of not being
7 able to support herself financially was "compromising her
8 emotional stability" (AR 749), her "stable periods [were]
9 frequently short lived due to continuing emotional swings" (AR
10 906), and she couldn't "sustain even a parttime job" (id.).
11 Those general statements about Plaintiff's emotional state and
12 the conclusory opinion of disability did not address specific
13 work functions, including the ability to adhere to a work
14 schedule, maintain reliability, or complete tasks.

15 The Magistrate Judge also correctly found that Plaintiff had
16 not challenged and therefore implicitly conceded as proper the
17 ALJ's discounting of Dr. Wareham's opinion because she acted as
18 an advocate. (See R. & R. at 23.) Plaintiff now argues that
19 this was not a proper basis for discounting the opinion because
20 nothing showed that it was "untruthful advocacy." (Objs. at 2-3
21 (emphasis in original).) Plaintiff has things backwards. An ALJ
22 is entitled to think a doctor's opinion may be "untruthful"
23 precisely because the doctor is acting as an advocate – that is,
24 she has a bias. In Matney ex rel. Matney v. Sullivan, 981 F.2d
25 1016, 1020 (9th Cir. 1992), the case relied on by the Magistrate
26 Judge (see R. & R. at 22), nothing indicated that the opinion of
27 the doctor who acted as an advocate for the plaintiff was
28 untruthful per se. Rather, the ALJ properly discounted the

1 opinion because the doctor was "advocating" for the plaintiff.
2 Matney, 981 F.2d at 1020. The undisputed evidence here
3 demonstrated that Dr. Wareham, too, had become an "advocate" for
4 Plaintiff; indeed, she admitted as much. (See R. & R. at 22-23
5 (citing AR 749).) The Magistrate Judge did not err.

6 And as she noted, the ALJ also properly discounted Dr.
7 Wareham's opinion because it was "an overly conclusory blanket
8 statement with no objective medical findings in support." (R. &
9 R. at 24 (citing AR 34).) Plaintiff argues that the ALJ erred in
10 "looking only within the four corners of Dr. Wareham's opinion
11 . . . and failing to consider the longitudinal record." (Objs.
12 at 3.) But the Magistrate Judge correctly observed that the
13 longitudinal record did not support Plaintiff's being unable to
14 "sustain even a parttime job." (R. & R. at 25 (citing AR 906).)
15 The ALJ discussed this longitudinal record in the section
16 immediately preceding the discussion of the medical opinions.
17 (See AR 31-33.) Plaintiff's argument that the ALJ should have
18 then repeated that lengthy discussion in discounting Dr.
19 Wareham's opinion is not well taken.

20 Plaintiff also objects that the ALJ erred in evaluating her
21 RFC and not further developing the record before formulating it.
22 (See Objs. at 4-5.) But there was nothing ambiguous or
23 inadequate about the record requiring such additional evidence,
24 as the Magistrate Judge noted. (See R. & R. at 29-31.) Dr.
25 Ruddock explicitly considered Plaintiff's alcohol abuse (AR 111-
26 12), anxiety (id.), depression (AR 112), and "bipolar affective"
27 disorder (id.) and assessed functional limitations (AR 114-16,
28 131-32). Dr. Ruddock also reviewed at least some of Dr.

1 Wareham's records and Dr. Rathana-Nakintara's examination report,
2 which contained a complete functional assessment. (See AR 103-
3 05, 108-09, 112-13.) Although Dr. Rathana-Nakintara's assessment
4 was somewhat dated, Plaintiff's mental conditions remained
5 relatively stable, as the Magistrate Judge observed. (See R. &
6 R. at 30 (citing AR 60, 545-47, 837, 852, 885).)

7 Plaintiff complains for the first time in her Objections
8 that the ALJ's decision was "internally inconsistent" because it
9 both relied on Dr. Ruddock's opinion and found that Plaintiff had
10 additional severe impairments not assessed by Dr. Ruddock.
11 (Objs. at 4-5.) But the ALJ was free to accept portions of Dr.
12 Ruddock's opinion and meld those with information from other
13 evidence in the record to form the RFC. See SSR 96-8p, 1996 WL
14 374184, at *5 (July 2, 1996) (stating that Commissioner forms RFC
15 based on consideration of all relevant evidence in record); 20
16 C.F.R. § 404.1545(a)(3) (same); Robbins v. Soc. Sec. Admin., 466
17 F.3d 880, 883 (9th Cir. 2006) (same). Plaintiff's argument that
18 reliance on Dr. Ruddock's opinion was unwarranted because her
19 condition had worsened is also unavailing because as previously
20 explained, Plaintiff's mental-health issues remained relatively
21 stable. (See AR 60, 545-47, 837, 852, 885.) Thus, remand is not
22 necessary on this issue.

23 Finally, any error in discounting the third-party statement
24 from Plaintiff's mother was harmless. As the Magistrate Judge
25 found, the ALJ's clear and convincing reasons for discounting
26 Plaintiff's own testimony established a sufficient basis for
27 rejecting her mother's similar statements. (See R. & R. at 33-34
28 (citing AR 31-33)); Valentine v. Comm'r Soc. Sec. Admin., 574

1 F.3d 685, 694 (9th Cir. 2009); Molina v. Astrue, 674 F.3d 1104,
2 1122 (9th Cir. 2012). And although Plaintiff now argues, as she
3 did for the first time in her reply, that the ALJ erred in
4 discounting Plaintiff's statements (Objs. at 5), she has
5 forfeited that claim, as the Magistrate Judge observed (R. & R.
6 at 34 n.24).

7 Having reviewed de novo those portions of the R. & R. to
8 which Plaintiff objects, the Court accepts the findings and
9 recommendations of the Magistrate Judge. IT THEREFORE IS ORDERED
10 that judgment be entered affirming the Commissioner's decision
11 and dismissing this action with prejudice.

12 DATED: April 28, 2021

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15 HON. ANDRÉ BIROTTE JR.
16 U.S. DISTRICT JUDGE
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