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

MYRA L. G.,<sup>1</sup>

Plaintiff,

v.

KILOLO KIJAKZI,  
Acting Commissioner of Social  
Security,

Defendant.

Case No. 5:20-cv-00447 AFM

**MEMORANDUM OPINION AND  
ORDER AFFIRMING DECISION  
OF THE COMMISSIONER**

Plaintiff filed this action seeking review of the Commissioner's final decision denying her application for a period of disability and disability insurance benefits. In accordance with the Court's case management order, the parties have filed briefs addressing the merits of the disputed issue. The matter is now ready for decision.

**BACKGROUND**

On August 29, 2011, Plaintiff filed an application for a period of disability and disability insurance benefits alleging an inability to work since May 15, 2000.

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<sup>1</sup> Plaintiff's name has been partially redacted in accordance with Federal Rule of Civil Procedure 5.2(c)(2)(B) and the recommendation of the Committee on Court Administration and Case Management of the Judicial Conference of the United States.

1 (Administrative Record (“AR”) 138-39, 156.) Her application was denied initially  
2 and upon reconsideration. (AR 125-28, 133-37.) A hearing was held before  
3 Administrative Law Judge (“ALJ”) M.J. Adams on August 21, 2012. (AR 37-58.)  
4 Plaintiff (represented by an attorney) and a vocational expert (“VE”) testified at the  
5 hearing. (*Id.*) On January 17, 2013, ALJ Adams issued an unfavorable decision  
6 finding Plaintiff not disabled. (AR 20-31.) Plaintiff requested review of the ALJ’s  
7 decision by the Appeals Council, which denied review on August 20, 2020. (AR 6-  
8 10.) Plaintiff then commenced a civil action. On May 16, 2017, this Court reversed  
9 the Commissioner’s decision and remanded for further administrative proceedings.  
10 (AR 1116-1124.)

11 On November 5, 2018, a supplemental administrative hearing was held on  
12 Plaintiff’s claim before ALJ Derek Johnson. Plaintiff (represented by an attorney), a  
13 VE and a medical expert testified at the supplemental hearing. (*Id.*) As accurately  
14 summarized in Plaintiff’s opening brief in this matter, ALJ Johnson issued a decision  
15 on February 19, 2019 that denied Plaintiff’s claim:

16 Gates met the insured status requirements of the Act through  
17 December 31, 2005 and had not engaged in substantial gainful  
18 activity since the alleged onset date of May 15, 2000. (A.R. 1023,  
19 ¶1). The ALJ determined that Gates had not engaged in substantial  
20 gainful activity since the alleged onset date and suffered from severe  
21 impairments consisting of chronic pain syndrome secondary to a  
22 1988 crush injury to the left femur, deep vein thrombosis, cervical  
23 and lumbar spine degenerative disc disease, major depressive  
24 disorder, and generalized anxiety disorder. (A.R. 1023, ¶¶ 2-3). The  
25 ALJ found that Gates did not have an impairment that met or equaled  
26 a listing. (A.R. 1023, ¶4). The ALJ determined that Gates retained  
27 the residual functional capacity for sedentary work with occasional  
28 pushing and pulling with the left lower extremity; no crawling or

1 climbing of ladders, ropes or scaffolds; occasional climbing ramps  
2 and stairs, balancing, stooping, kneeling, and crouching; no exposure  
3 to vibration or hazards such as unprotected heights or moving  
4 machinery; and no interaction with the public. (A.R. 1026, ¶5).  
5 Through the date last insured, the ALJ found that Gates was capable  
6 of performing her past relevant work as a budget analyst and graphic  
7 designer. (A.R. 1032, ¶6). As a result, the ALJ concluded that Gates  
8 was not disabled within the meaning of the Social Security Act. (A.R.  
9 1033, ¶7).

10 (ECF No. 19 at 4.) Plaintiff again requested review by the Appeals Council, which  
11 denied review on August 20, 2020. (AR 1011-1017.) This case was then commenced.

#### 12 **DISPUTED ISSUE**

13 Whether the ALJ erred in accounting for Plaintiff's mental limitations.

#### 14 **STANDARD OF REVIEW**

15 Under 42 U.S.C. § 405(g), this Court only reverses the Commissioner's  
16 decision if its findings are based on legal error or are not supported by substantial  
17 evidence. *See Molina v. Astrue*, 674 F.3d 1104, 1110 (9th Cir. 2012), *superseded by*  
18 *regulation on other ground as recognized in, Sweets v. Kijakazi*, 855 Fed. Appx. 325  
19 (9th Cir. Aug. 9, 2021). As the Supreme Court has stated, "whatever the meaning of  
20 'substantial' in other contexts, the threshold for such evidentiary sufficiency is not  
21 high." *Biestek v. Berryhill*, 139 S. Ct. 1148, 1154 (2019). Substantial evidence is  
22 "more than a scintilla, but less than a preponderance." *Reddick v. Chater*, 157 F.3d  
23 715, 720 (9th Cir. 1998). Where the evidence is susceptible to more than one rationale  
24 interpretation, one of which supports the ALJ's decision, the ALJ's conclusion must  
25 be upheld. *See Thomas v. Barnhart*, 278 F.3d 947, 954 (9th Cir. 2002). As such, this  
26 Court may not substitute its judgment for that of the Commissioner. *See Jamerson v.*  
27 *Chater*, 112 F.3d 1064, 1065 (9th Cir. 1997). Even when the ALJ commits legal  
28 error, the decision will be upheld where that error is harmless. *Treichler v. Comm'r*

1 of *Soc. Sec. Admin.*, 775 F.3d 1090, 1099 (9th Cir. 2014). An error is harmless if it is  
2 inconsequential to the ultimate nondisability determination. *Id.*

### 3 DISCUSSION

4 In assessing a claimant's mental impairments, an ALJ is required to evaluate  
5 the degree of mental limitation in four areas: (1) understand, remember, or apply  
6 information; (2) interact with others; (3) concentrate, persist, or maintain pace; and  
7 (4) adapt or manage oneself. *See* 20 C.F.R. § 404.1520a(c)-(d). Plaintiff makes a  
8 single contention regarding error in this case: She urges that the ALJ erred because  
9 even though the ALJ found a moderate mental limitation in adapting or managing  
10 oneself, there was no corresponding work-related limitation in the ALJ's residual  
11 functional capacity (RFC) finding. Plaintiff further notes that the RFC includes a "no  
12 public contact" limitation that accounts for the ALJ's other moderate mental finding  
13 concerning interacting with others. Because Plaintiff's past work was of a highly  
14 skilled nature, Plaintiff contends that the lack of an RFC limitation for adapting or  
15 managing oneself was a material error.

16 In opposition, the Commissioner points to *Hoopai v. Astrue*, 499 F.3d 1071,  
17 1077 (9th Cir. 2007).<sup>2</sup> There, the Ninth Circuit upheld an ALJ's determination that  
18 "Hoopai's depression was not sufficiently severe such that it significantly affects his  
19 ability to work beyond the exertional limitations." *Id.* at 1076. In *Hoopai*, there was  
20 substantial evidence in the record to support the ALJ's determination. Two  
21 psychological evaluations diagnosed claimant with only "moderately significant  
22 forms of depression," and a third found him to be moderately limited in "his ability  
23 to perform activities within a schedule, maintain regular attendance, and be punctual  
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26 <sup>2</sup> The Commissioner also cites *Lacroix v. Barnhart*, 465 F.3d 881, 888 (8th Cir. 2006), in which  
27 the Eighth Circuit affirmed an ALJ finding the claimant functioned satisfactorily in the work setting  
28 even though a doctor had noted moderate limitations in the ability to respond to work pressures.  
Given the discussion herein, the Court need not analyze or rely on this decision outside the Ninth  
Circuit.

1 with customary tolerance; and his ability to complete a normal workday and  
2 workweek without interruption from psychologically-based symptoms . . . .” *Id.* at  
3 1077. The Ninth Circuit stated that it had “not previously held mild or moderate  
4 depression to be a sufficiently severe non-exertional limitation that significantly  
5 limits a claimant’s ability to do work beyond the exertional limitation.” *Id.* The Ninth  
6 Circuit affirmed the ALJ’s RFC determination that contained only exertional  
7 limitations because “substantial evidence supports the ALJ’s conclusion . . . .” *Id.*

8 Here, after discussing Plaintiff’s moderate non-exertional limitation in  
9 “adapting or managing oneself,” the ALJ concluded, “there is insufficient evidence  
10 to establish that the claimant’s ability to regulate emotions, control behavior, or  
11 maintain well-being in a work setting independently, appropriately, effectively, and  
12 on a sustained basis were seriously limited.” (AR 1025.) In reaching this conclusion,  
13 the ALJ cited evidence from 2010 and 2012 that Plaintiff had no anxiety and no  
14 depression. (*Id.*, citing AR 508, 518) The ALJ also discussed mental health evidence  
15 later in the decision and referred to evidence that Plaintiff had normal orientation,  
16 affect, demeanor and mood. (AR 1031, citing AR 521.) The ALJ gave significant  
17 weight to the opinion of medical expert Dr. Glassmire, who opined that Plaintiff  
18 should have no interaction with the public<sup>3</sup>, a limitation that the ALJ included in the  
19 RFC based in part on Dr. Glassmire’s opinion. (*Id.*; AR 1031.) Dr. Glassmire also  
20 opined that the other paragraph “B” criteria would *not* lead to functional limitations  
21 in the work setting: “Q. Okay. Do you have enough information to classify even those  
22 with mild social or cognitive deficits lead to any functional limitations in terms of—  
23 A. The only limitation that I would recommend would be no interaction with public.”  
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26 <sup>3</sup> Dr. Glassmire recommended inclusion of the “no interaction with public” limitation “based on  
27 my knowledge and my experience meeting individuals with depressive disorders. But there’s, as I  
28 mentioned there’s not a lot of information about the severity in the record, so that’s a conservative  
recommendation to be safe.” (AR 1048.) Plaintiff has not challenged the ALJ’s reliance on  
Dr. Glassmire’s opinions.

1 (AR 1048.) Thus, substantial evidence supports the ALJ’s determination that  
2 Plaintiff’s mental limitation in adapting or managing herself did not severely limit  
3 her ability to do work and did not require an additional non-exertional limitation in  
4 the RFC. *See Hoopai*, 499 F.3d at 1077.

5 So long as an ALJ’s interpretation of the record is supported by substantial  
6 evidence — which it is here — the Court may not disturb it. *See Lewis v. Astrue*, 498  
7 F.3d 909, 911 (9th Cir. 2007) (“[I]f evidence is susceptible of more than one rational  
8 interpretation, the decision of the ALJ must be upheld”); *see generally Biestek*, 139  
9 S. Ct. at 1154 (observing that in the social security context, the threshold for  
10 “substantial evidence” is “not high”). Accordingly, Plaintiff has not shown reversible  
11 error by the ALJ.

12 **ORDER**

13 IT IS THEREFORE ORDERED that Judgment be entered affirming the  
14 decision of the Commissioner and dismissing this case with prejudice.

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16 DATED: 9/15/2021

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19 ALEXANDER F. MacKINNON  
20 UNITED STATES MAGISTRATE JUDGE  
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