

O

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

DESIREH AVA,

Plaintiff,

v.

CAROLYN W. COLVIN,
COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. SA CV 14-1814 JCG

**MEMORANDUM OPINION AND
ORDER**

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

1. Whether the Administrative Law Judge (“ALJ”) properly determined that Plaintiff could perform alternative work (*see* Joint Stipulation (“Joint Stip.”) at 4-10, 17-18); and

2. Whether the ALJ properly evaluated the medical evidence, in particular, the opinion of the physician in Plaintiff’s workers’ compensation case, precluding Plaintiff from bilateral above-shoulder use (*see id.* at 4, 18-21).

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

3 A. The ALJ Properly Determined that Plaintiff Could Perform Alternative
4 Work

5 Preliminarily, Plaintiff contends that the ALJ erred at step five of her evaluation
6 by determining that Plaintiff could perform alternative work as a photocopy machine
7 operator or mail clerk. (*See id.* at 5-10, 17-18.) Plaintiff advances four arguments:
8 (1) the ALJ's residual functional capacity ("RFC") finding improperly failed to
9 incorporate portions of examining physician Dr. John S. Godes's opinion regarding
10 Plaintiff's standing, walking, and reaching limitations; (2) Plaintiff's RFC standing and
11 walking limitation conflicted with the light work description in SSR-83-10;
12 (3) Plaintiff's RFC reaching limitation conflicted with the alternative jobs'
13 requirements; and (4) because the ALJ's RFC finding was improper, the hypotheticals
14 posed by the ALJ to the vocational expert ("VE") were invalid. (*See id.*)

15 1. The ALJ Properly Incorporated Medical Evidence into
16 Plaintiff's RFC

17 First, Plaintiff argues that the ALJ's RFC finding inadequately accounted for Dr.
18 Godes's medical opinion. (*See id.* at 5-9.)

19 As a rule, when formulating a claimant's RFC, an ALJ must consider all the
20 relevant evidence in the record, including medical reports and the claimant's and
21 others' descriptions of limitations. *See Robbins v. Soc. Sec. Admin.*, 466 F.3d 880, 883
22 (9th Cir. 2006); 20 C.F.R. §§ 404.1545(a), 416.945(a). However, an ALJ need not
23 agree with each aspect of a physician's opinion in order for that opinion to constitute
24 substantial evidence in support of the ALJ's decision. *See Magallanes v. Bowen*, 881
25 F.2d 747, 753 (9th Cir. 1989).

26 Here, Dr. Godes opined that Plaintiff (1) could never reach overhead, (2) could
27 only occasionally reach otherwise, (3) could stand or walk for only two hours per
28

1 eight-hour workday, and (4) could sit for only six hours per eight-hour workday. (*See*
2 Administrative Record (“AR”) at 1018.)

3 The Court finds that the ALJ’s RFC finding properly accounted for Dr. Godes’s
4 opinion for two reasons.

5 First, the ALJ incorporated Dr. Godes’s opinion precluding Plaintiff from
6 bilateral overhead reaching.¹ (*See* AR at 21); *see also* *Turner v. Comm’r Soc. Sec.*
7 *Admin.*, 613 F.3d 1217, 1223 (9th Cir. 2010) (ALJ need not provide reasons for
8 rejecting a physician’s opinions where ALJ incorporated opinions into RFC).

9 Second, Dr. Godes’s opinion regarding Plaintiff’s standing and walking
10 restrictions conflicted with the less restrictive limitation assessments of the state
11 agency consultative examiners.² (*See* AR at 21, 24-25, 27; *compare id.* at 68, 72, 84
12 *with id.* at 1018, 1026-28); *see also* *Kane v. Colvin*, 2015 WL 5317149, at *3
13 (E.D. Cal. Sept. 10, 2015) (ALJ properly rejected treating physician’s opinion
14 regarding claimant’s standing and walking limitations in part because opinion was
15 contradicted by state agency physicians’ less severe limitation findings); *Nelson v.*
16 *Astrue*, 2009 WL 1699660, at *3 (N.D. Cal. June 17, 2009) (ALJ properly rejected
17 physician’s opinion that was contradicted by other opinions in the medical record,
18 including those of state agency reviewing physicians).

19 Accordingly, the ALJ properly assessed the medical evidence.

20 ///

21 ///

22 ///

23 ¹ In particular, the ALJ gave Dr. Godes’s opinion significant weight and determined that
24 Plaintiff could “frequently reach in full extension of arms (can reach to less than full extension
25 without limits)” but “is to do no work overhead bilaterally[.]” (AR at 21, 27.)

26 ² For example, one state agency consultative physician concluded that Plaintiff (1) could stand
27 and walk six hours per eight-hour workday, (2) could occasionally lift 20 pounds and frequently lift
28 10 pounds, (3) had unlimited ability to push and pull, and (4) was capable of performing light work.
(*See* AR at 68, 72.)

1 2. No Conflict Exists Between Plaintiff’s RFC
2 Standing/Walking Limitation and SSR 83-10’s Light Work
3 Description

4 Next, Plaintiff contends that her RFC standing and walking limitation conflicted
5 with the light work description in SSR 83-10. (See Joint Stip. at 9-10.) The Court
6 disagrees for two reasons.

7 First, SSR 83-10’s six-hour standing/walking requirement applies to only a *full*
8 range of light work.³ Here, the ALJ found that Plaintiff had the RFC to perform *less*
9 than a full range of light work. (AR at 28); see *Jones v. Colvin*, 2014 WL 657914, at
10 *7 (C.D. Cal. Feb. 19, 2014) (standing/walking limitation did not conflict with SSR
11 83-10 because ALJ determined that Plaintiff could perform a range, not a full range, of
12 light work).

13 Second, contrary to Plaintiff’s assertion, SSR 83-10 recognizes that not *all* light
14 work jobs require standing or walking for six hours.⁴ (See Joint Stip. at 9-10); see also
15 *Thompson v. Colvin*, 2015 WL 1476001, at *5 (C.D. Cal. Mar. 31, 2015) (finding no
16 inconsistency between claimant’s RFC and SSR 83-10 because “the job of mail clerk
17 could be done spending only two hours standing or walking”); *Jones*, 2014 WL
18 657914, at *7.

19 Thus, no conflict exists between Plaintiff’s RFC and SSR 83-10.

20 ///

21 ///

22 ///

23 ³ SSR 83-10 specifies that light work requires “frequent lifting and carrying of objects
24 weighing up to 10 pounds,” and “[s]ince frequent lifting or carrying requires being on one’s feet up to
25 two-thirds of a workday, the *full range* of light work requires standing or walking, off and on, for a
26 total of approximately 6 hours out of an 8-hour workday.” SSR 83-10, 1983 WL 31251, at *5-6
(emphasis added); see also 20 C.F.R. §§ 404.1567(b), 416.967(b).

27 ⁴ “A job is also in [the light work] category when it involves sitting most of the time but with
28 some pushing and pulling of arm-hand or leg-foot controls . . .” SSR 83-10, 1983 WL 31251, at *5.

1 *Astrue*, 533 F.3d 1035, 1041 (9th Cir. 2008) (ALJ may properly reject physician’s
2 conclusions that are inconsistent with objective evidence). Dr. Halbridge’s conclusion
3 that Plaintiff was precluded from above-shoulder arm use was based on diagnostic
4 studies including, *e.g.*, (1) lumbar and cervical spine MRIs, (2) right and left shoulder
5 MRIs, and (3) an upper extremity electromyogram nerve conductive study. (*See* AR at
6 21, 23-24, 834-35, 837-38, 846-47, 1052-53.) The ALJ considered this same evidence
7 in detail, and found the test results generally unremarkable. (AR at 23-24.) Moreover,
8 Plaintiff fails to explain how this medical evidence is inconsistent with the ALJ’s
9 functional limitations finding. (*See* Joint Stip. at 18-21.)

10 Second, findings made in a workers’ compensation case are not conclusive here.
11 (*See* AR at 26, 1056); *see also* *Macri v. Chater*, 93 F.3d 540, 543-44 (9th Cir. 1996);
12 *Desrosiers v. Sec’y of Health & Human Servs.*, 846 F.2d 573, 576 (9th Cir. 1988)
13 (“The categories of work under the Social Security disability scheme are measured
14 quite differently” than those under the workers’ compensation disability scheme);
15 *Olivera v. Astrue*, 2010 WL 5582902, at *16 (S.D. Cal. Nov. 22, 2010) (“A finding
16 that Plaintiff was temporarily. . . disabled for workers’ compensation purposes[] is not
17 conclusive here.”).

18 Thus, the ALJ properly evaluated the medical evidence presented by Dr.
19 Halbridge.

20 ///

21 ///

22 ///

23 ///

24 ///

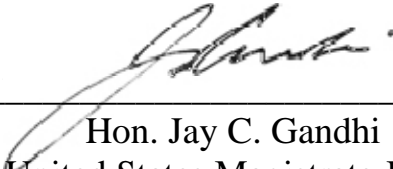
25 ///

26 ///

27 ///

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: December 15, 2015

5 
6 _____
7 Hon. Jay C. Gandhi
8 United States Magistrate Judge

9 ***

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

13 ***