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

VINCENT MEL GONZALES,  
Plaintiff,

v.

CAROLYN W. COLVIN, Acting  
Commissioner of Social Security,  
Defendant.

Case No. CV 15-00272-RAO

**MEMORANDUM OPINION AND  
ORDER**

**I.  
INTRODUCTION**

Vincent Mel Gonzales (“Plaintiff”) challenges the Commissioner’s denial of his applications for a period of disability and disability insurance benefits (“DIB”) and Supplemental Security Income (“SSI”) following an administrative law judge’s (“ALJ”) decision that he was not disabled. Administrative Record (“AR”) 34. For the reasons stated below, the Commissioner’s decision is **AFFIRMED**.

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1 not engaged in substantial gainful activity since the AOD. AR 17. At **step two**, the  
2 ALJ found that Plaintiff has the following severe impairments: degenerative disc  
3 disease (“DDD”), lumbar spine, status post fusion and hardware removal; DDD of  
4 cervical spine with left arm and hand numbness; mood disorder, not otherwise  
5 specified (“NOS”); anxiety disorder, NOS; chronic pain disorder; and personality  
6 disorder, NOS. *Id.* At **step three**, the ALJ found that Plaintiff “does not have an  
7 impairment or combination of impairments that meets or medically equals the  
8 severity of one of the listed impairments in 20 CFR Part 404, Subpart P, Appendix  
9 1.” *Id.* at 18 (citations omitted). At **step four**, the ALJ found that Plaintiff had the  
10 residual functional capacity (“RFC”) to:

11 [P]erform light work.... Specifically, he can lift and/or carry 20  
12 pounds occasionally; and 10 pounds frequently; stand and/or  
13 walk with normal breaks for a total of six hours of an eight-  
14 hour workday; sit with normal breaks for a total of six hours of  
15 an eight-hour workday; frequent for gross manipulation with  
16 left non-dominant hand; postural limitations all occasional; and  
17 no ladders, ropes, scaffolds, bending or stooping. He is limited  
18 to simple tasks, object oriented, habituated setting, and no  
safety related operations, fast moving or hazardous machinery  
or highly fast-paced work, such as a fast-paced assembly line.

19 *Id.* at 21. Given his RFC, the ALJ found that Plaintiff could not perform any past  
20 relevant work. *Id.* at 32. At **step five**, however, the ALJ found that there were jobs  
21 existing in significant number in the national economy that Plaintiff could perform,  
22 and thus concluded that Plaintiff was not disabled. *Id.* at 32-33.

### 23 **III.**

#### 24 **STANDARD OF REVIEW**

25 Under 42 U.S.C. § 405(g), a district court may review the Commissioner’s  
26 decision to deny benefits. A court must affirm an ALJ’s findings of fact if they are  
27 supported by substantial evidence, and if the proper legal standards were applied.  
28 *Mayes v. Massanari*, 276 F.3d 453, 458-59 (9th Cir. 2001). “‘Substantial evidence’

1 means more than a mere scintilla, but less than a preponderance; it is such relevant  
2 evidence as a reasonable person might accept as adequate to support a conclusion.”  
3 *Lingenfelter v. Astrue*, 504 F.3d 1028, 1035 (9th Cir. 2007) (citing *Robbins v. Soc.*  
4 *Sec. Admin.*, 466 F.3d 880, 882 (9th Cir. 2006)). An ALJ can satisfy the substantial  
5 evidence requirement “by setting out a detailed and thorough summary of the facts  
6 and conflicting clinical evidence, stating his interpretation thereof, and making  
7 findings.” *Reddick v. Chater*, 157 F.3d 715, 725 (9th Cir. 1998) (citing *Magallanes*  
8 *v. Bowen*, 881 F.2d 747, 751 (9th Cir. 1989)).

9 “[T]he Commissioner's decision cannot be affirmed simply by isolating a  
10 specific quantum of supporting evidence. Rather, a court must consider the record  
11 as a whole, weighing both evidence that supports and evidence that detracts from  
12 the Secretary's conclusion.” *Auckland v. Massanari*, 257 F.3d 1033, 1035 (9th Cir.  
13 2001) (citations and internal quotations omitted). “‘Where evidence is susceptible  
14 to more than one rational interpretation,’ the ALJ's decision should be upheld.”  
15 *Ryan v. Comm'r of Soc. Sec.*, 528 F.3d 1194, 1198 (9th Cir. 2008) (citing *Burch v.*  
16 *Barnhart*, 400 F.3d 676, 679 (9th Cir. 2005)); *see also Robbins*, 466 F.3d at 882  
17 (“If the evidence can support either affirming or reversing the ALJ's conclusion, we  
18 may not substitute our judgment for that of the ALJ.”). The Court may review only  
19 “the reasons provided by the ALJ in the disability determination and may not affirm  
20 the ALJ on a ground upon which he did not rely.” *Orn v. Astrue*, 495 F.3d 625, 630  
21 (9th Cir. 2007) (citing *Connett v. Barnhart*, 340 F.3d 871, 874 (9th Cir. 2003)).

#### 22 IV.

#### 23 DISCUSSION

24 Plaintiff contends that the ALJ impermissibly “rejected”<sup>2</sup> the opinion of Dr.  
25 Feldman—an agreed psychiatric medical examiner who conducted a mental status  
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27 <sup>2</sup> Plaintiff’s argument heading states that the ALJ “rejected” Dr. Feldman’s opinion.  
28 Memorandum in Support of Plaintiff’s Complaint (“Pl. Memo.”) at 7. However,  
the ALJ actually accorded Dr. Feldman’s opinion “partial weight.” AR 32.

1 examination of Plaintiff in connection with his state workers' compensation claim  
2 on July 16, 2011—without providing specific and legitimate reasons for doing so.  
3 Pl. Memo. at 7-18; AR 25, 31-32, 871-910. Defendant, in turn, contends that the  
4 ALJ's assessment is supported by substantial evidence and is free of harmful legal  
5 error. *See* Memorandum in Support of Defendant's Answer ("Def. Memo.") at 3-9.

6 **A. Applicable Law**

7 An ALJ is obligated to consider medical opinions of record, resolve conflicts  
8 in medical testimony, and analyze evidence. 20 C.F.R. §§ 404.1527(c), 416.927(c);  
9 *Magallanes*, 881 F.2d at 750. Courts give varying degrees of deference to medical  
10 opinions depending on the opinion provider: (1) "treating physicians" who examine  
11 and treat; (2) "examining physicians" who examine, but do not treat; and (3) "non-  
12 examining physicians" who do not examine or treat. *See Valentine v. Comm'r, Soc.*  
13 *Sec. Admin.*, 574 F.3d 685, 692 (9th Cir. 2009). Opinions of treating or examining  
14 physicians are entitled to greater weight than those of non-examining physicians.  
15 *Garrison v. Colvin*, 759 F.3d 995, 1012 (9th Cir. 2014) (citing *Ryan*, 528 F.3d at  
16 1198). If an examining physician's opinion is contradicted by another doctor, the  
17 ALJ can reject his or her opinion only if he provides specific and legitimate reasons  
18 supported by substantial evidence in the record. *Ghanim v. Colvin*, 763 F.3d 1154,  
19 1161 (9th Cir. 2014); *Garrison*, 759 F.3d at 1012; *see also Ryan*, 528 F.3d at 1198.

20 **B. ALJ's Opinion**

21 Here, the ALJ accorded Dr. Feldman's examining physician opinion<sup>3</sup> "partial  
22 weight," stating, in part, as follows:

23 In an agreed medical evaluation of the claimant on July 16,  
24 2011, Dr. Feldman opined that the claimant has no impairment  
25 to moderate impairment in activities of daily living; no  
26 impairment to mild impairment in social functioning; no

27 <sup>3</sup> In his opinion, the ALJ separately and thoroughly considered 15 medical opinions  
28 (seven of which were related to Plaintiff's mental impairments), and the assessment  
of a licensed clinic social worker. *See* AR 27-32.

1 impairment to moderate impairment in concentration; no  
2 impairment to moderate impairment in adaptation; moderate  
3 disability in maintaining pace; moderate disability in complex  
4 and varied tasks; slight to moderate disability in dealing with  
5 people; slight to moderate disability in influencing people;  
6 moderate disability in making decisions; and slight to moderate  
7 disability in accepting and carrying out responsibility. Again,  
8 these ratings are under workers' compensation guidelines,  
9 which are not the same criteria used to determine disability  
10 under the Social Security Act. Furthermore, Dr. Feldman was  
11 internally inconsistent with his own findings. He opined only  
12 mild impairment in social functioning, yet he assessed a GAF  
13 of 55, which indicates the claimant with moderate difficulty in  
14 social functioning and he assessed the claimant with moderate  
15 disability in dealing or influencing people, which has been  
16 considered in the [RFC]. Dr. Feldman opined moderate  
17 impairment in activities of daily living, which is not supported  
18 by the objective evidence as previously discussed in the  
19 credibility findings. The claimant's assessed moderate  
20 limitations in concentration, in maintaining pace, in  
21 comprehending and following instructions and in complex and  
22 varied tasks, corresponds to the [RFC].

23 AR 31-32 (citations omitted).

24 **C. Analysis**

25 The ALJ accorded Dr. Feldman's opinion "partial weight," and adopted some  
26 but not all of the limitations identified in Dr. Feldman's agreed medical evaluation,  
27 for three reasons: (1) Dr. Feldman's ratings are under state workers' compensation  
28 guidelines, which differ from social security criteria; (2) Dr. Feldman's findings are  
inconsistent; and (3) Dr. Feldman's opinion that Plaintiff is moderately impaired in  
terms of activities of daily living ("ADLs") is not supported by objective evidence.

**1. Workers' Compensation Guidelines**

Plaintiff contends that "the fact that Dr. Feldman's opinion is presented in the  
context of worker[s'] compensation is not a reason to reduce the weight afforded to  
it." Pl. Memo. 12. ALJs may not disregard an opinion because it was "elicited in a

1 ... workers' compensation proceeding," *Booth v. Barnhart*, 181 F. Supp. 2d 1099,  
2 1105 (C.D. Cal. 2002), but *may* accord less weight to a disability rating designated  
3 under a different system, *i.e.*, workers' compensation, if that determination is based  
4 on persuasive, specific, and valid reasons. *Aranda v. Colvin*, 2015 WL 2409227, at  
5 \*6 (C.D. Cal. May 20, 2015). Here, after summarizing Dr. Feldman's opinions as  
6 to Plaintiff's impairments, the ALJ noted that Dr. Feldman's "ratings [were] under  
7 [state] workers' compensation guidelines, which are not the same criteria used to  
8 determine disability under the Social Security Act." AR 32. That finding alone is  
9 not a persuasive, specific, or valid reason to accord less weight to a disability rating  
10 designated under the workers' compensation guidelines. *Cf. Berry v. Astrue*, 622  
11 F.3d 1228, 1236 (9th Cir. 2010) (the fact that the Social Security Administration is  
12 not bound by a Department of Veterans Affairs decision—because their governing  
13 rules differ—is not a persuasive, specific, or valid reason to discount that decision).

14 Thus, the ALJ's first reason is neither a specific nor legitimate reason.

## 15 **2. Internal Inconsistency**

16 Plaintiff contends that Dr. Feldman's opinion is not internally inconsistent,  
17 and that the ALJ's reference to inconsistency in Dr. Feldman's opinion seems to be  
18 a "misstatement" because "the subset of social functioning that the ALJ apparently  
19 believes is inconsistent from the whole is actually rated slight to moderate, not just  
20 moderate as the ALJ asserts." Pl. Memo. at 13.

21 Plaintiff has not identified the particular subset to which he is referring; and  
22 the AR page cited contains two "slight to moderate" ratings. AR 895.<sup>4</sup> Regardless,

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23 <sup>4</sup> Those two "slight to moderate" ratings state that Plaintiff has "Slight to Moderate  
24 disability in Relating to Other People Beyond Giving and Receiving Instructions,  
25 getting along with co-workers, performing work requiring negotiating with,  
26 explaining and persuading because of reduced self-esteem, and responding  
27 appropriately to evaluation and criticism[.]" and "Slight to Moderate disability in  
28 Influencing People. Reduced self-esteem, depression and anxiety will cause  
disability convincing or directing others, interacting appropriately with others." AR  
895. There is a third "slight to moderate" rating on the following page. *Id.* at 896.

1 in finding that Dr. Feldman was internally inconsistent with his own findings, *id.* at  
2 32, it is unlikely that the ALJ was referring to the “subsets” Plaintiff has identified.  
3 Rather, in noting that Dr. Feldman found Plaintiff’s social functioning to be “mildly  
4 impaired,” the ALJ appears to have been referring to the preceding page of the AR.  
5 *Id.* at 32, 894. On that page, under “Social functioning[,]” the ALJ assessed Class 1  
6 (no impairment) to Class 2 (mild impairment) ratings. *Id.* at 894. Also on the page,  
7 however, Dr. Feldman assessed Plaintiff with a Global Assessment of Functioning  
8 (“GAF”)<sup>5</sup> score of 55, which indicates *moderate* symptoms or *moderate* difficulty  
9 in social functioning. *Id.*; DSM-IV. Accordingly, Dr. Feldman’s social functioning  
10 and GAF score assessments are inconsistent.

11 Internal inconsistencies are a valid reason to accord less weight to a medical  
12 opinion. *See Pipkin v. Astrue*, 2013 WL 572079, at \*3 (C.D. Cal. Feb. 13, 2013)  
13 (ALJs may consider whether an opinion is internally inconsistent in determining the  
14 weight to give the evidence); *see also Rollins v. Massanari*, 261 F.3d 853, 856 (9th  
15 Cir. 2001) (upholding an ALJ’s rejection of a medical opinion that was internally  
16 inconsistent); *Khan v. Colvin*, 2014 WL 2865173, at \*7 (C.D. Cal. June 24, 2014)  
17 (“The ALJ’s first reason for rejecting Dr. Multani’s opinion—to wit, that his opinion  
18 was internally inconsistent—is specific and legitimate.”).

19 Thus, the ALJ’s second reason is a specific and legitimate reason.

### 20 **3. Opinion Regarding Activities Of Daily Living**

21 Dr. Feldman opined that Plaintiff has moderate impairments in certain ADLs.  
22 AR 894. The ALJ found that Dr. Feldman’s opinion is not supported by the record,  
23 which does not show moderate impairments. *Id.* at 32. Plaintiff contends that the  
24 ALJ’s finding is a mischaracterization because Dr. Feldman found that Plaintiff was

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25 <sup>5</sup> A GAF score is the clinician’s judgment of the individual’s overall level of  
26 functioning. It is rated with respect only to psychological, social, and occupational  
27 functioning, without regard to impairments in functioning due to physical or  
28 environmental limitations. *See American Psychiatric Association, Diagnostic and  
Statistical Manual of Mental Disorders* (“DSM-IV”), at 32 (4th ed. 2000).



1 moderately limited only in sexual interest, activities, and sleep, and did not find any  
2 “moderate impairment[s] in the [ADLs] that the ALJ believes reflect negatively on  
3 credibility,” such as “self-care and personal hygiene.” Pl. Memo. at 13.

4 Contrary to Plaintiff’s contention, while the ALJ did not specifically identify  
5 what ADLs he was referring to, AR 32 (“Dr. Feldman opined moderate impairment  
6 in [ADLs], which is not supported by the objective evidence”), it is apparent from  
7 Dr. Feldman’s evaluation that the ALJ is referring only to sexual interest, activities,  
8 and sleep. In his evaluation, Dr. Feldman opined that Plaintiff largely had no ADLs  
9 impairments. AR 894 (stating that, “[f]rom a psychiatric perspective,” Plaintiff has  
10 no impairment in attendance to his self-care and personal hygiene, no impairment in  
11 communication, no impairment in travel, no impairment in sensory function, and no  
12 impairment in hand activities). But Dr. Feldman further opined that Plaintiff “has  
13 ... moderate impairment in sexual interest and activities, and sleep.” *Id.* Given the  
14 foregoing, in stating that “Dr. Feldman opined moderate impairment” in ADLs, it is  
15 apparent that the ALJ meant the ADLs where Dr. Feldman actually found moderate  
16 impairment, *i.e.*, sexual interest, activities, and sleep. *Id.* at 894.

17 The ALJ ultimately found that Dr. Feldman’s ADLs impairment opinion was  
18 not supported by the objective evidence as “discussed in the credibility findings” of  
19 his decision. *Id.* at 32. In those credibility findings, the ALJ noted that Plaintiff has  
20 reported performing certain activities that suggest, at most, a mild impairment. For  
21 example, the ALJ noted, *inter alia*, that Plaintiff reported being able to walk about a  
22 mile a day following his 2005 surgery; take care of his own hygiene and grooming;  
23 take care of his severely ill wife, monitor her medications, and manage both of their  
24 medical appointments; help with household chores; go shopping with his wife; and  
25 play with and babysit his two young grandchildren. *See id.* at 26, 616, 752, 786-87,  
26 800, 818, 873, 958. Plaintiff also told Dr. Feldman, *inter alia*, that he attends “AA  
27 meetings two to three times a week and domestic violence classes[,] ... goes to the  
28 gym twice a week and walks on the treadmill one hour twice a week.” *Id.* at 873.

1           Moreover, Dr. Feldman’s finding that Plaintiff’s interest in sex is moderately  
2 impaired conflicts with other objective evidence in the record. On June 19, 2009,  
3 for example, James Gleisinger, Ph.D., noted that Plaintiff reported “a good libido,”  
4 but stated that “he and his wife [had] far less sexual relations due to health issues.”  
5 AR 800. And other opinions in the record further contradict Dr. Feldman’s finding.  
6 On February 16, 2007, Katalin Bassett, M.D., noted that Plaintiff had sleep and sex  
7 drive issues, but opined that his ADLs impairment is mild. *Id.* at 794. In his June  
8 19, 2009 report, Dr. Gleisinger opined that Plaintiff had no ADLs impairments. *Id.*  
9 at 823. On March 13, 2010, Minh-Hoi Duong, M.D., opined that Plaintiff’s ADLs  
10 “are normal.” *Id.* at 753. And the ME at Plaintiff’s second administrative hearing,  
11 Joseph Malancharuvil, Ph.D., upon reviewing the evidence, opined that Plaintiff  
12 had mild restrictions of ADLs. *Id.* at 100. In light of the foregoing, the Court finds  
13 that the ALJ’s determination is supported by substantial evidence in the record.

14           Lack of support in the record is a valid reason to discount a medical opinion.  
15 *Batson v. Commissioner*, 359 F.3d 1190, 1195 (9th Cir. 2004) (ALJs may discredit  
16 an opinion that is unsupported by the record as a whole or by the objective medical  
17 findings); 20 C.F.R. §§ 404.1527(c)(4), 416.927(c)(4) (“[T]he more consistent an  
18 opinion is with the record as a whole, the more weight we will give to [it].”).

19           Thus, the ALJ’s third reason is a specific and legitimate reason.

20           On balance, the Court finds that the ALJ gave specific and legitimate reasons  
21 for giving Dr. Feldman’s opinion only “partial weight” (and thus adopting some but  
22 not all of the various limitations stated therein), which are supported by substantial  
23 evidence in the record. Accordingly, the Court finds that the ALJ did not err.

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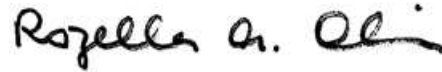
V.

**CONCLUSION**

IT IS ORDERED that Judgment shall be entered AFFIRMING the decision of the Commissioner denying benefits.

IT IS FURTHER ORDERED that the Clerk of the Court serve copies of this Order and the Judgment on counsel for both parties.

DATED: October 30, 2015



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ROZELLA A. OLIVER  
UNITED STATES MAGISTRATE JUDGE

**NOTICE**

**THIS DECISION IS NOT INTENDED FOR PUBLICATION IN WESTLAW, LEXIS/NEXIS, OR ANY OTHER LEGAL DATABASE.**