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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANNA MARIE RANGEL,
Plaintiff,
v.
COMMISSIONER OF SOCIAL
SECURITY,
Defendant.

Case No. 1:17-cv-00706-JDP

ORDER ON SOCIAL SECURITY APPEAL

(Doc. No. 1)

I. INTRODUCTION

Plaintiff Anna Marie Rangel has filed a complaint under 42 U.S.C. § 405(g) seeking judicial review of a final decision of the Commissioner of Social Security (“Commissioner”) denying her applications for Supplemental Security Income (“SSI”) and Disability Insurance Benefits (“DIB”). (Doc. No. 1.) The case has been submitted on the parties’ briefs. The court will affirm the decision of the Commissioner.

1 **II. THE DISABILITY EVALUATION STANDARD**

2 A person has a “disability” under the Social Security Act of 1935 if the claimant cannot
3 “engage in any substantial gainful activity by reason of any medically determinable physical or
4 mental impairment which can be expected to result in death or which has lasted or can be
5 expected to last for a continuous period of not less than 12 months.” 42 U.S.C. §§ 423(d)(1)(A),
6 1382c(a)(3)(A). The physical or mental impairment must be an anatomical, physiological, or
7 psychological abnormality “demonstrable by medically acceptable clinical and laboratory
8 diagnostic techniques.” *Id.* §§ 423(d)(3), 1382c(a)(3)(D). The impairment must be sufficiently
9 severe that the claimant cannot perform her previous work and cannot—considering her age,
10 education, and work experience—engage in substantial gainful work that exists in the national
11 economy. *See id.* §§ 423(d)(2)(A), 1382c(a)(3)(B). The Commissioner must consider the
12 combined effect of all the claimant’s impairments, regardless of whether any individual
13 impairment is on its own severe enough to constitute a disability. *See id.* §§ 423(d)(2)(B),
14 1382c(a)(3)(G).

15 The Social Security Administration has a sequential, five-step process for evaluating a
16 claimed disability. *See* 20 C.F.R. §§ 404.1520(a)-(g), 416.920(a)-(f). If a claimant is determined
17 to be either disabled or not disabled at any step in the sequence, the analysis ceases without a
18 consideration of subsequent steps. *Id.* §§ 404.1520(a)(4), 416.920(a)(4). At step one, the
19 Commissioner determines whether the claimant is currently engaged in substantial gainful
20 activity. *Id.* §§ 404.1520(b), 416.920(b). At step two, the Commissioner considers whether the
21 claimant has a severe impairment or combination of impairments that significantly limit his or her
22 ability to perform basic work activities. *See id.* §§ 404.1520(c), 416.920(c). At step three, the
23 Commissioner determines whether the claimant has a severe impairment or combination of
24 impairments that meets or equals the requirements of the Listing of Impairments (“Listing”). *See*
25 *id.* §§ 404.1520(d), 416.920(d). At step four, the Commissioner determines whether the claimant
26 can perform his or her past jobs. *See id.* §§ 404.1520(f), 416.920(f). At step five, the
27 Commissioner determines whether the claimant can perform other work that exists in significant
28 numbers in the national economy. *See id.* §§ 404.1520(g), 416.920(g). The claimant bears the

1 burden of proof at steps one through four, but the Commissioner bears the burden at step five.
2 *See Bowen v. Yuckert*, 482 U.S. 137, 146 n.5 (1987).

3 **III. PROCEDURAL BACKGROUND**

4 Rangel has filed an application for SSI claiming disability beginning February 7, 2012.
5 AR 16.¹ The decision of the Administrative Law Judge (“ALJ”) to deny benefits on September
6 21, 2015 became the final decision of the Commissioner when the Commissioner’s Appeals
7 Council denied Rangel’s request to review the appeal. *See* 42 U.S.C. §§ 405(g), 1383(c)(3); 20
8 C.F.R. §§ 404.981; 416.1481. The ALJ’s decision is now before this court for review.

9 **IV. THE COMMISSIONER’S FINAL DECISION**

10 The ALJ found that Rangel is not disabled. AR 15-24. At step one, the ALJ found that
11 Rangel had not engaged in substantial gainful activity since the alleged onset date of her
12 disability, February 7, 2012. AR 16. The ALJ then found severe impairments at step two:
13 “obesity; hyperlipidemia; dysfunction, major joints; osteoarthritis and allied disorders; essential
14 hypertension; affective disorders; and degenerative disk disease.” AR 16. At step three, the ALJ
15 found that Rangel did not have an impairment or combination of impairments that met or
16 medically equaled one of the listing impairments in 20 C.F.R. Part 404 P, Appendix 1. AR 17.
17 The ALJ also determined at step three that Rangel had the residual functional capacity (“RFC”)
18 to:

19 perform light work as defined in 20 CFR 404.1567(b) and 416.967(b) except she
20 can occasionally reach overhead bilaterally; can frequently climb ramps and stairs;
21 can never climb ladders, ropes or scaffolds or crawl; and can frequently stoop,
22 kneel, crouch and crawl. The claimant can never be exposed to unprotected heights,
23 moving mechanical parts or extreme cold. Finally, the claimant is limited to
24 performing simple, routine tasks.

25 AR 19. The ALJ therefore proceeded to step four.

26 Relying on a Vocational Expert’s (“VE”) testimony at step four, the ALJ found that
27 Rangel had past relevant work of “home attendant,” “change person,” “janitor,” and “foster
28 parent.” AR 22-23. The ALJ determined that Rangel could no longer perform her past relevant
work. AR 23.

¹ All “AR” citations refer to the administrative record. (Doc. No. 10.)

1 At step five—after considering Rangel’s age, education, work experience, and RFC in
2 conjunction with the Medical-Vocational Guidelines, 20 C.F.R. § 404, Subpart P, App. 2—the
3 ALJ concluded that “there are jobs that exist in significant numbers in the national economy that
4 the claimant can perform.” AR 23. The ALJ thus concluded that Rangel was not disabled as
5 defined in the Social Security Act. AR 24.

6 V. DISCUSSION

7 Rangel argues on appeal that the ALJ improperly rejected her pain and symptom
8 testimony, and the reasons provided by the ALJ were not supported by substantial evidence.
9 (Doc. No. 14 at 5.) A district court will set aside the Commissioner’s final decision denying
10 benefits only if that decision is either (1) not supported by substantial evidence or (2) based on a
11 legal error. *See* 42 U.S.C. § 405(g); *Wellington v. Berryhill*, 878 F.3d 867, 871 (9th Cir. 2017).

12 “Substantial evidence means more than a mere scintilla, but less than a preponderance; [i]t
13 means such relevant evidence as a reasonable mind might accept as adequate to support a
14 conclusion.” *Revels v. Berryhill*, 874 F.3d 648, 654 (9th Cir. 2017) (quoting *Desrosiers v. Sec’y*
15 *of Health & Human Servs.*, 846 F.2d 573, 576 (9th Cir. 1988)). In evaluating whether a decision
16 of the Commissioner was based on substantial evidence, the court reviews the “entire record as a
17 whole, weighing both the evidence that supports and the evidence that detracts from the
18 Commissioner’s conclusion, and may not affirm simply by isolating a specific quantum of
19 supporting evidence.” *Lingenfelter v. Astrue*, 504 F.3d 1028, 1035 (9th Cir. 2007) (internal
20 quotation marks and citations omitted). If the evidence can reasonably support either affirming or
21 reversing the Commissioner’s final decision, the court may not substitute its judgment for that of
22 the Commissioner—it must affirm under the substantial evidence standard. *Id.*; *see Revels*, 874
23 F.3d at 654 (“Where evidence is susceptible to more than one rational interpretation, the ALJ’s
24 decision should be upheld.” (quoting *Orn v. Astrue*, 495 F.3d 625, 630 (9th Cir. 2007))). The
25 court reviews only the reasons provided by the Commissioner in the disability determination and
26 may not affirm based on a ground upon which the Commissioner did not rely. *See Revels*, 874
27 F.3d at 654. The court will find legal error if it concludes that the Commissioner applied the
28 wrong legal standard. *See Wellington v. Colvin*, 2016 WL 224184, at *5 (E.D. Cal. Jan. 19,

1 2016), *aff'd sub nom. Wellington v. Berryhill*, 878 F.3d 867 (9th Cir. 2017).

2 In evaluating Rangel's limitations to formulate the RFC, the ALJ's decision denying
3 disability benefits stated that Rangel's "statements concerning the intensity, persistence and
4 limiting effects of [her pain] symptoms are not entirely credible." AR 22. An ALJ must engage a
5 two-step analysis in determining whether a claimant's testimony concerning subjective pain or
6 symptoms is credible. *See Garrison v. Colvin*, 759 F.3d 995, 1014 (9th Cir. 2014). "First, the
7 ALJ must determine whether the claimant has presented objective medical evidence of an
8 underlying impairment which could reasonably be expected to produce the pain or other
9 symptoms alleged." *Id.* (internal quotation marks omitted). "[T]he claimant is not required to
10 show her impairment could reasonably be expected to cause the severity of the symptom she has
11 alleged; she need only show that it could reasonably have caused some degree of the symptom."
12 *Id.* The claimant is not required to produce objective medical evidence of the pain or its severity.
13 *See id.* Second, if there is no evidence of malingering, the ALJ may reject a claimant's testimony
14 about the severity of the pain "only by offering specific, clear and convincing reasons for doing
15 so."² *Id.* at 1015; *see also Trevizo v. Berryhill*, 871 F.3d 664, 679 (9th Cir. 2017) (reaffirming the
16 application of the two-step analysis in *Garrison* after Social Security Ruling 16-3p (2016)).

17 Here, the ALJ took issue with Rangel's testimony that her pain was so intense that she
18 could not work at all. AR 22. In discounting this testimony, the ALJ pointed out that Rangel
19 "had been a full-time caregiver to her mother for 12 years, performing very heavy exertional
20 work." AR 22. The ALJ further noted that the objective medical evidence supports a limitation,
21 but Rangel could still perform "light exertional work." AR 22 (citing MRI of Cervical Spine on
22 12/10/2014 by Physician Reynaldo Garcia, Exhibit 8F, pages 3-4, AR 574-75). The ALJ thus
23 provided two reasons for discounting Rangel's credibility: (1) inconsistency with the medical
24 evidence in the record; and (2) Rangel's prior "heavy" executional work. *See* AR 22.

25 Rangel asserts that the reasons provided by the ALJ are unsupported by substantial
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27 ² "The clear and convincing standard is the most demanding required in Social Security cases."
28 *Garrison*, 759 F.3d at 1015 (quoting *Moore v. Comm'r of Soc. Sec. Admin.*, 278 F.3d 920, 924
(9th Cir. 2002)).

1 evidence. Regarding the inconsistency with the objective medical evidence, Rangel argues that
2 the ALJ did not provide specific, clear, and convincing reasons; the ALJ merely recited the
3 evidence in support of the RFC conclusion without identifying what evidence was inconsistent
4 with Rangel’s testimony. (Doc. No. 14 at 7.) The court disagrees.

5 On pages 19-22 of administrative record, the ALJ considered and discussed the medical
6 evidence in detail. *See* AR 19-22. Importantly, no medical opinion provided a greater limitation
7 from Rangel’s pain symptoms than what was incorporated by the ALJ into the RFC. *See id.*
8 Consultative examiner Roger Wagner, M.D., examined Rangel on July 14, 2013 and concluded
9 that she had no limitations with: (1) standing and walking with normal breaks; (2) sitting; (3) did
10 not need an assistive device; (4) lifting; (5) could frequently perform postural activities; and (6)
11 could frequently stoop and perform manipulative activities. AR 21, 540-41. The state agency
12 medical consultants, A. Nasarbadi and R. Fast, agreed that Rangel can perform medium
13 exertional work.³ AR 21, 91-92, 122-23. Medium exertional work is defined by regulation to
14 involve “lifting no more than 50 pounds at a time with frequent lifting or carrying of objects
15 weighing up to 25 pounds.” 20 C.F.R. § 404.1567(c).

16 The ALJ formulated an RFC that was more restrictive than the medical evidence by
17 limiting Rangel to “light” exertional work, which is defined by regulation to involve “lifting no
18 more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10
19 pounds.” 20 C.F.R. § 404.1567(b). By limiting Rangel’s RFC to light exertional work instead of
20 medium, which is what the medical evidence indicated, the ALJ partially credited Rangel’s
21 testimony concerning pain. This was reasonable considering that there was no objective medical
22 evidence in the record to support Rangel’s testimony that she could not perform work at all due to
23 her pain. Therefore, the court concludes that inconsistency with the objective medical evidence
24 was a “specific, clear, and convincing reason” for partially discrediting Rangel’s testimony
25 concerning pain.⁴ *See, e.g., Hubbard v. Astrue*, 371 F. App’x 785 (9th Cir. 2010) (holding that

26 ³ A. Nasarbadi’s evaluation occurred on July 30, 2013, AR 91-92, and R. Fast conducted an
27 evaluation on January 9, 2014, AR 122-23.

28 ⁴ The court need not reach Rangel’s argument concerning the ALJ’s other reasoning for partially
discrediting Rangel’s pain and symptom testimony because any error would be harmless.

1 ALJ's finding that claimant was "not entirely credible" was supported by specific, clear and
2 convincing reasons, including that the objective medical evidence was inconsistent with her
3 testimony about the severity of her symptoms). The ALJ's decision denying Social Security
4 benefits is therefore supported by substantial evidence.

5 **VI. CONCLUSION AND ORDER**

6 Plaintiff Anna Marie Rangel's appeal from the administrative decision of the
7 Commissioner of Social Security is denied, and the decision of the Commissioner of Social
8 Security is affirmed. The clerk of court is directed to (1) enter judgment in favor of defendant
9 Commissioner of Social Security and (2) close this case.

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11 IT IS SO ORDERED.

12 Dated: September 18, 2018


13 UNITED STATES MAGISTRATE JUDGE

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