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6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF CALIFORNIA
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9 GLORIA ANN CHARLES,

10 Plaintiff,

11 v.

12 NANCY A. BERRYHILL, Acting
13 Commissioner of Social Security,

14 Respondent.
15

No. 1:17-cv-00955-GSA

**ORDER DIRECTING ENTRY OF
JUDGMENT IN FAVOR OF THE
COMMISSIONER OF SOCIAL SECURITY
AND AGAINST PLAINTIFF**

16
17 **I. Introduction**

18 Plaintiff Gloria Ann Charles seeks judicial review of a final decision of the Commissioner
19 of Social Security (“Commissioner” or “Defendant”) denying her application for disability
20 insurance benefits pursuant to Title II of the Social Security Act. The matter is currently before
21 the Court on the parties’ briefs which were submitted without oral argument to the Honorable
22 Gary S. Austin, United States Magistrate Judge.¹ See Docs. 18, 21 and 22. Having reviewed the
23 record as a whole, the Court finds that the ALJ’s decision is based an appropriate legal standards
24 and supported by substantial evidence. Accordingly, the Court affirms the Commissioner’s denial
25 of benefits to Plaintiff.

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27 ¹ The parties consented to the jurisdiction of the United States Magistrate Judge. See Docs. 9 and 10.
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Administrative Law Judge Cynthia Floyd presided over an administrative hearing on February 24, 2016. AR 46-80. Plaintiff, proceeding *pro se*, appeared and testified. AR 46. An impartial vocational expert, Jose Chaparro, also appeared and testified. AR 46.

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1 herself. AR 202. After developing sciatica in the four months prior to the administrative hearing,
2 Plaintiff had stopped exercising and going for walks. AR 67-69.

3 In her initial claim for disability, Plaintiff alleged the following illnesses, impairments,
4 and conditions: diabetes, high blood pressure, high cholesterol, osteoporosis, osteoarthritis in
5 finger joints, anemia, and thyroid. AR 82. On January 16, 2014, agency physician David L.
6 Hicks, M.D., who evaluated the initial application, opined that there was insufficient evidence to
7 support a disability finding. AR 87. On reconsideration, agency physician J.R. Saphir, M.D.,
8 again found insufficient evidence to support a finding of disability. AR 96.

9 The record included 538 pages of medical records from Kaiser-Permanente from
10 September 2007 through January 2012. AR 239-776. These records document Plaintiff's
11 ongoing treatment for obesity, diabetes, hypertension, and hyperlipidemia, as well as various
12 acute conditions.

13 Beginning in April 2010, Plaintiff complained of problems with both feet, consisting of a
14 bony growth on her right heel and pain between the second and third toes on her left foot. AR
15 360-61. X-rays of her right foot indicated a mild hallux valgus deformity and mild degenerative
16 arthritis. AR 364. Left foot x-rays also indicated mild osteoarthritis. AR 364. During a
17 consultation on April 21, 2010, podiatrist Charles Arthur Oliver, D.P.M., injected Plaintiff's left
18 foot with anesthetic and recommended that Plaintiff first try conservative treatment (ice and a
19 shoe pad) on the right heel (calcaneal exostosis). AR 374.

20 After conservative treatment did not relieve Plaintiff's heel pain, Dr. Oliver performed
21 surgery to excise the growth on August 13, 2010. *See* AR 454 ff. By September 9, 2010, Dr.
22 Oliver observed that the incision was well-healed with minimal residual fullness and there was no
23 pain with direct palpation. AR 528.

24 On June 27, 2011, Plaintiff returned to Dr. Oliver complaining of left heel pain. AR 566.
25 The doctor diagnosed retrocalcaneal bursitis with achilles enthesopathy, and applied a cast to
26 Plaintiff's left foot. AR 566. X-rays revealed degenerative arthritic changes of the foot. AR 569.
27 No further treatment of the left foot is documented in the administrative record.

1 In early July 2011, Plaintiff developed a skin ulcer beneath a fold of abdominal flesh
2 (pannus). AR 572. On July 22, 2011, Bryan Scott Stewart, M.A., diagnosed cellulitis. AR 574.
3 On August 6, 2011, Adolfo Alvarez, M.D., noted that the wound was healing slowly but that
4 there were chronic skin changes. AR 590. On September 15, 2011, Dr. Alvarez performed a
5 panniculectomy. AR 618. On October 3, 2011, Dr. Alvarez treated a post-surgical wound
6 infection. AR 704. By October 10, Plaintiff was feeling better. AR 740.

7 On December 14, 2011, Plaintiff reported that she had been experiencing sharp pain on
8 the right side of her abdominal scar for about two months. AR 762. Chungxi Li, M.D., attributed
9 the lingering pain to the post-surgical infection and prescribed ibuprofen and topical medications
10 to relieve the painful scar. AR 763.

11 Beginning in January 2013, Plaintiff changed her medical provider. *See* AR 777 ff. In the
12 course of a routine colonoscopy on November 13, 2013, doctors discovered a cancerous mass in
13 Plaintiff's right colon. AR 796. Surgeon Saber Ghiassi, M.D., performed a laparoscopic right
14 hemicolectomy the same day. AR 801.

15 X-rays of Plaintiff's fingers taken February 1, 2016, revealed mild degenerative changes
16 to the joints. AR 856-58.

17 **IV. Standard of Review**

18 Pursuant to 42 U.S.C. §405(g), this court has the authority to review a decision by the
19 Commissioner denying a claimant disability benefits. "This court may set aside the
20 Commissioner's denial of disability insurance benefits when the ALJ's findings are based on
21 legal error or are not supported by substantial evidence in the record as a whole." *Tackett v.*
22 *Apfel*, 180 F.3d 1094, 1097 (9th Cir. 1999) (citations omitted). Substantial evidence is evidence
23 within the record that could lead a reasonable mind to accept a conclusion regarding disability
24 status. *See Richardson v. Perales*, 402 U.S. 389, 401 (1971). It is more than a scintilla, but less
25 than preponderance. *See Saelee v. Chater*, 94 F.3d 520, 522 (9th Cir. 1996) (internal citation
26 omitted). When performing this analysis, the court must "consider the entire record as a whole
27 and may not affirm simply by isolating a specific quantum of supporting evidence." *Robbins v.*
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1 *Social Security Admin.*, 466 F.3d 880, 882 (9th Cir. 2006) (citations and internal quotation marks
2 omitted).

3 If the evidence reasonably could support two conclusions, the court “may not substitute its
4 judgment for that of the Commissioner” and must affirm the decision. *Jamerson v. Chater*, 112
5 F.3d 1064, 1066 (9th Cir. 1997) (citation omitted). “Finally, the court will not reverse an ALJ’s
6 decision for harmless error, which exists when it is clear from the record that the ALJ’s error was
7 inconsequential to the ultimate nondisability determination.” *Tommasetti v. Astrue*, 533 F.3d
8 1035, 1038 (9th Cir. 2008) (citations and internal quotation marks omitted).

9 **V. The Disability Standard**

10 To qualify for benefits under the Social Security Act, a plaintiff
11 must establish that he or she is unable to engage in substantial
12 gainful activity due to a medically determinable physical or mental
13 impairment that has lasted or can be expected to last for a
14 continuous period of not less than twelve months. 42 U.S.C. §
15 1382c(a)(3)(A). An individual shall be considered to have a
16 disability only if . . . his physical or mental impairment or
17 impairments are of such severity that he is not only unable to do his
18 previous work, but cannot, considering his age, education, and work
19 experience, engage in any other kind of substantial gainful work
20 which exists in the national economy, regardless of whether such
21 work exists in the immediate area in which he lives, or whether a
22 specific job vacancy exists for him, or whether he would be hired if
23 he applied for work.

24 42 U.S.C. §1382c(a)(3)(B).

25 To achieve uniformity in the decision-making process, the Commissioner has established
26 a sequential five-step process for evaluating a claimant’s alleged disability. 20 C.F.R. §§
27 416.920(a)-(f). The ALJ proceeds through the steps and stops upon reaching a dispositive finding
28 that the claimant is or is not disabled. 20 C.F.R. §§ 416.920(a)(4). The ALJ must consider
objective medical evidence and opinion testimony. 20 C.F.R. §§ 416.927; 416.929.

Specifically, the ALJ is required to determine: (1) whether a claimant engaged in
substantial gainful activity during the period of alleged disability, (2) whether the claimant had
medically determinable “severe impairments,” (3) whether these impairments meet or are
medically equivalent to one of the listed impairments set forth in 20 C.F.R. § 404, Subpart P,

Appendix 1, (4) whether the claimant retained the residual functional capacity (“RFC”) to perform his past relevant work, and (5) whether the claimant had the ability to perform other jobs existing in significant numbers at the national and regional level. 20 C.F.R. §§ 416.920(a)-(f).

VI. Summary of the Hearing Decision

Using the Social Security Administration’s five-step sequential evaluation process, the ALJ determined that Plaintiff did not meet the disability standard. AR 30-39. The ALJ found that Plaintiff had not engaged in substantial gainful activity since June 30, 2012. AR 32. Plaintiff’s severe impairments included obesity, osteoarthritis and degenerative joint disease of both hands. AR 32. The severe impairments did not meet or medically equal one of the listed impairments in 20 C.F.R. Part 404, Subpart P, Appendix 1 (20 C.F.R. §§ 416.920(d); 416.925; and 416.926). AR 33. The ALJ concluded that Plaintiff had the residual functional capacity to lift and carry 50 pounds occasionally and 25 pounds frequently, and sit, stand or walk six hours in an eight-hour workday but could only frequently handle, finger, feel, and grasp with the hands bilaterally. AR 33. Plaintiff was capable of perform her past relevant work as administrative clerk, purchasing agent or receptionist. AR 38. Accordingly, the ALJ found that Plaintiff was not disabled. AR 39.

VII. Failing to Characterize Plaintiff’s Ankle and Heel Problems as Severe Impairments Was Not Error

Plaintiff contends that the ALJ erred in failing to categorize her left ankle and heel problems as severe impairments at step two. Defendant contends that even if the ALJ erred in failing to determine that the left heel and ankle problems were severe impairments, any error was harmless. The Court agrees with Defendant.

At step two, the Commissioner determines whether the claimant has a medically severe impairment or combination of impairments. *Bowen v. Yuckert*, 482 U.S. 137, 140-41 (1987); 20 C.F.R. §416.920(a)(4)(ii). An impairment is a medically determinable physical or mental impairment or combination of physical or mental impairments. 20 C.F.R. § 416.902(f). If a claimant does not have an impairment of combination of impairments which significantly limit

1 the claimant's physical or mental ability to do basic work activities, the Commissioner will find
2 that the claimant does not have a severe impairment. 20 C.F.R. § 416.920(c).

3 "The step-two inquiry is a de minimus screening device to dispose of groundless claims."
4 *Smolen v. Chater*, 80 F.3d 1273, 1290 (9th Cir. 1996). An impairment or combination of
5 impairments can be found 'not severe' only if the evidence establishes a slight abnormality that
6 has no more than a minimal effect on an individual['s ability to work." *Id.* at 1290; SSR 85-28.
7 "[T]he severity regulation is to do no 'more than allow the Secretary to deny benefits summarily
8 to those applicants with impairments of a minimal nature which could never prevent a person
9 from working.'" SSR 85-28 (quoting *Baeder v. Heckler*, No. 84-5663 (3d Cir. July 24, 1985)).

10 Even if an individual impairment is not sufficiently serious to prevent a person from
11 working, an ALJ must consider the combined effect of all of the claimant's impairments on his or
12 her ability to function as well as considering the claimant's subjective symptoms, such as pain or
13 fatigue. *Smolen*, 80 F.3d at 1290. "If such a finding is not clearly established by medical
14 evidence, however, adjudication must continue through the sequential evaluation process." SSR
15 85-28. The ruling warned:

16 Great care should be exercised in applying the not severe
17 impairment concept. If an adjudicator is unable to determine
18 clearly the effect of an impairment or combination of impairments
19 on the individual's abilities to do basic work activities, the
20 sequential evaluation process should not end with the not severe
21 evaluation step. Rather, it should be continued. In such a
22 circumstance, if the impairment does not meet or equal the severity
23 level of the relevant medical listing, sequential evaluation requires
24 that the adjudicator evaluate the individual's ability to do past work,
25 or to do other work based on the consideration of age, education,
26 and prior work experience.

27 SSR 85-28.

28 For example, Ms. Smolen suffered from childhood cancer that resulted in the loss of one
kidney, loss of part of her left lung, changes in her remaining lung tissue, mild anemia,
suppression of bone marrow production, and spinal scoliosis, all of which led to severe fatigue
and back pain. *Smolen*, 80 F.3d at 1290. The ALJ found only a single severe impairment, "slight
scoliosis," which limited her ability to walk and sit. *Id.* The step two analysis disregarded Ms.

1 Smolen’s subjective symptoms when determining severity. *Id.* The Ninth Circuit rejected the
2 step two analysis: “Having found Smolen to suffer from only one “severe” impairment at step
3 two, the ALJ necessarily failed to consider at step five how the combination of her other
4 impairments—and resulting incapacitating fatigue—affected her residual functional capacity to
5 do work.” *Id.* at 1291.

6 Plaintiff’s situation is distinguishable. Miss Smolen contended that her multiple
7 impairments together produced incapacitating fatigue. *Id.* at 1280-81. In contrast, Plaintiff
8 contended only that her serious impairments included diabetes, high blood pressure, high
9 cholesterol, osteoporosis, osteoarthritis in finger joints, anemia, and thyroid. AR 82. She did not
10 allege that her left foot pain constituted a severe impairment, nor did the limited evidence of her
11 left foot pain suggest that it constituted a severe impairment alone or in combination with
12 Plaintiff’s other impairments.

13 As set forth in the factual background above, following her recovery from surgery on her
14 right foot, Plaintiff complained to Dr. Oliver of left heel pain on one instance. AR 566. Although
15 X-rays revealed degenerative arthritic changes in Plaintiff’s left toes, radiologist J. Elliott, M.D.,
16 reported that the calcaneus (heel) was “grossly unremarkable.” AR 568. The doctor diagnosed
17 retrocalcaneal bursitis with achilles enthesopathy, and applied a boot cast to Plaintiff’s left foot.
18 AR 566. The record includes no evidence of any further treatment to Plaintiff’s left foot, ankle or
19 heel, and includes no evidence that Plaintiff’s ankle or heel pain had any effect on her ability to
20 work.

21 Importantly, the policy guiding the *Smolen* determination does not apply here. After
22 finding that Smolen had only one “severe” impairment at step two, “the ALJ necessarily failed to
23 consider at step five how the combination of her other impairments—and resulting incapacitating
24 fatigue—affected her residual functional capacity to do work.” *Smolen*, 80 F.3d at 1291. Despite
25 the lack of evidence in this case, the ALJ nonetheless considered the effect of the mild
26 degenerative arthritis of Plaintiff’s feet in the residual functional capacity analysis. AR 36.
27 Nothing more was required.

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1 *Smolen*, 80 F.3d at 1281. “If the ALJ finds that the claimant's testimony as to the severity of her
2 pain and impairments is unreliable, the ALJ must make a credibility determination with findings
3 sufficiently specific to permit the court to conclude that the ALJ did not arbitrarily discredit
4 claimant's testimony.” *Thomas*, 278 F.3d at 958. “[T]he ALJ must identify what testimony is
5 not credible and what evidence undermines the claimant’s complaints.” *Lester*, 81 F.3d at 834.
6 It is not sufficient for the ALJ to make general findings; he must state which testimony is not
7 credible and what evidence in the record leads to that conclusion. *Dodrill v. Shalala*, 12 F.3d
8 915, 918 (9th Cir. 1993); *Bunnell*, 947 F.2d at 345-346. “[A] reviewing court should not be
9 forced to speculate as to the grounds for an adjudicator’s rejection of a claimant’s allegations of
10 disabling pain.” *Bunnell*, 947 F.2d at 346.

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12 The ALJ began her analysis by finding that Plaintiff had not left work because she was
13 unable to perform her work, but rather because her employer eliminated her position for
14 economic reasons. AR 34. She acknowledged that objective medical evidence in the record
15 confirmed Plaintiff’s allegations of obesity, osteoarthritis, and degenerative joint disease in both
16 hands. AR 35. She emphasized, however, that “the extent to which these impairments limit the
17 claimant’s exertional and nonexertional functions is generally found in the opinion evidence.”
18 AR 35.

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20 Other than Plaintiff’s own accounts of her pain, the only opinion evidence of record came
21 from the agency’s medical consultants, both of whom found no evidence of a disabling
22 impairment. AR 35. In other words, no treating or examining physician offered an opinion
23 regarding whether any of Plaintiff’s impairments affected her functional ability to perform work.

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25 First, agency physician David Hicks, M.D., found no evidence of a disabling impairment
26 before Plaintiff’s last insured date (June 30, 2012). AR 35. He found that although the record
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1 documented treatment including medication management, pain complaints, various medical
2 procedures and medical conditions, Plaintiff was generally doing well. AR 36. She was
3 managing her diabetes and generally feeling well. AR 36. She experienced pain in her right foot
4 but recovered within a reasonable time after surgery done to remove the bony growth on her right
5 heel. AR 36.

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7 On reconsideration, agency physician J.R. Saphir, M.D., affirmed Dr. Hicks's opinion.
8 AR 36. He distinguished impairments arising after the dates on which Plaintiff was last insured.
9 AR 36. He found that Plaintiff had diabetes (type 2) and hypertension without end organ damage;
10 both were generally well controlled with medication. AR 36. Although Plaintiff had experienced
11 surgery to remove the bony growth in her right foot, and to minimize an abdominal skin flap that
12 was causing ulcerative sores, she recovered fully after treatment. AR 36. No detailed medical
13 evidence supported Plaintiff's allegations of disabling conditions. AR 36.

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15 The ALJ acknowledged that neither of the agency physicians had an opportunity to
16 consider Plaintiff's subjective complaints of pain and obesity. AR 36. In light of Plaintiff's
17 testimony, the ALJ found that Plaintiff's obesity and the osteoarthritis and degenerative joint
18 disease in her hands caused significant physical limitations, including lifting, carrying, handling,
19 fingering and grasping. AR 36. Accordingly, she rejected the agency physicians' opinion that
20 Plaintiff had no exertional limitations and concluded that Plaintiff was capable of medium
21 exertion with manipulative limitations and limitations on carrying and lifting. AR 36. Because
22 Plaintiff's testimony revealed that she led an active life, the ALJ concluded that Plaintiff's
23 obesity did not result in further limitations. AR 36.

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25 Because objective medical evidence did not lead to a determination that was fully
26 favorable to Plaintiff, the ALJ then proceeded to consider Plaintiff's subjective testimony. AR
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1 37. As the Ninth Circuit recently acknowledged, SSR 16-3p “makes clear what our precedent
2 already required: that assessments of an individual’s testimony by an ALJ are designed to
3 ‘evaluate the intensity and persistence of symptoms after [the ALJ] find[s] that the individual has
4 a medically determinable impairment(s) that could reasonably be expected to produce those
5 symptoms,’ and not to delve into wide-ranging scrutiny of the claimant’s character and apparent
6 truthfulness.” *Trevizo v. Berryhill*, 871 F.3d 664, 678 n.5 (9th Cir. 2017) *see also* *Cole v. Colvin*,
7 831 F.3d 411, 412 (7th Cir. 2016) (Posner, J.). Because a “claimant’s subjective statements may
8 tell of greater limitations than can medical evidence alone,” an “ALJ may not reject the
9 claimant’s statements regarding her limitations merely because they are not supported by
10 objective evidence.” *Tonapetyan v. Halter*, 242 F.3d 1144, 1147-48 (2001) (quoting *Fair*, 885
11 F.2d at 602 (9th Cir. 1989). *See also* *Bunnell*, 947 F.2d at 34 (holding that when there is evidence
12 of an underlying medical impairment, the ALJ may not discredit the claimant’s testimony
13 regarding the severity of his symptoms solely because they are unsupported by medical
14 evidence). “Congress clearly meant that so long as the pain is *associated* with a clinically
15 demonstrated impairment, credible pain testimony should contribute to a determination of
16 disability.” *Id.* at 345 (internal quotation marks and citations omitted).

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19 Nonetheless, the law does not require an ALJ simply to ignore inconsistencies between
20 objective medical evidence and a claimant’s testimony. “While subjective pain testimony cannot
21 be rejected on the sole ground that it is not fully corroborated by objective medical evidence, the
22 medical evidence is still a relevant factor in determining the severity of claimant’s pain and its
23 disabling effects.” *Rollins v. Massanari*, 261 F.3d 853, 857 (9th Cir. 2001); SSR 16-3p (citing 20
24 C.F.R. § 404.1529(c)(2)). An ALJ properly considers whether the medical evidence supports or
25 is consistent with a claimant’s pain testimony. *Id.*; 20 C.F.R. §§ 404.1529(c)(4), 416.1529(c)(4)
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1 (symptoms are determined to diminish residual functional capacity only to the extent that the
2 alleged functional limitations and restrictions “can reasonably be accepted as consistent with the
3 objective medical evidence and other evidence”). Nonetheless, a claimant’s statement of pain or
4 other symptoms is not conclusive evidence of a physical or mental impairment or disability. 42
5 U.S.C. § 423(d)(5)(A); Soc. Sec. Rul. 16-3p, 2017 WL 5180304 (Oct. 25, 2017). “An ALJ
6 cannot be required to believe every allegation of [disability], or else disability benefits would be
7 available for the asking, a result plainly contrary to the [Social Security Act].” *Fair v. Bowen*,
8 885 F.2d 597, 603 (9th Cir. 1989).

10 An ALJ may reject symptom testimony that is contradicted by or inconsistent with the
11 record and, as long as other reasons are provided, lacking the support of objective medical
12 evidence. *Carmickle v. Comm’r, Soc. Sec. Admin.*, 533 F.3d 1155, 1161 (9th Cir. 2008)(holding
13 that the ALJ did not err in rejecting Carmickle’s testimony that he could lift ten pounds
14 occasionally in favor of a physician’s opinion that Carmickle could lift ten pounds frequently);
15 *Rollins*, 261 F.3d at 857; *Tonapetyan v. Halter*, 242 F.3d 1144, 1148 (9th Cir. 2001). Citing 20
16 C.F.R. §§ 404.1529(c) and 416.929(c), the ALJ in this case listed as factors relevant to a
17 credibility determination: (1) objective medical evidence; (2) the claimant’s daily activities; (3)
18 factors that precipitate and aggravate the symptoms; (4) the location, duration, frequency, and
19 intensity of the claimant’s pain or other symptoms; (5) the type, dosage, effectiveness and side
20 effects of medication taken to alleviate pain or other symptoms; (6) treatment other than
21 medication received for the pain or other symptoms; (7) other measures needed to relieve pain or
22 other symptoms; and (8) any other factors concerning functional limitations or restrictions
23 resulting from pain or other symptoms. AR 37. The ALJ concluded that Plaintiff’s daily

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1 activities were not as limited as her allegations of severe pain and limitation precluding all work
2 activity:

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4 The claimant testified she wakes at about 7:30 or 8:00 am, but
5 reported trouble sleeping at night. She falls asleep around 5 or 6
6 pm. Her husband makes coffee; she eats a banana, makes toast,
7 takes medications, and waits a couple of hours to test her blood
8 sugar. If she has a doctor appointment, she gets ready for that or
9 maybe makes the bed. She may do some laundry, then prepare
10 lunch with her husband or will do it herself and then eats lunch.
11 After lunch, she may watch television, clean house, do more
12 laundry, wash dishes, or take a nap.

13 AR 37.

14 Medications, treatments, and other methods used to alleviate symptoms are also “an
15 important indicator of the intensity and persistence” of a claimant’s symptoms. 20 C.F.R. §§
16 404.1529(c)(3), 416.1529(c)(3); SSR 16-3p. For example, an ALJ may consider unexplained or
17 inadequately explained failure to seek or follow through with treatment, *Tommasetti*, 533 F.3d at
18 1039; the use of conservative treatment, *Parra v. Astrue*, 481 F.3d 742, 750-51 (9th Cir. 2007);
19 and any other factors concerning functional limitations and restrictions due to pain or other
20 symptoms. 20 C.F.R. §§ 404.1529(c)(3)(vii), 416.1529(c)(3)(vii). In this case, the ALJ
21 contrasted Plaintiff’s allegations of disabling pain and symptoms with a “very conservative
22 course of treatment,” consisting primarily of medication and medication management. AR 37.
23 Since her surgery, Plaintiff’s periodic diagnostic studies have been normal. AR 37. “[H]er
24 diabetes is controlled with medication and her blood sugars are normal.” AR 37. Similarly, her
25 hypertension and hyperlipidemia are controlled with medication. AR 38. Even during the period
26 flare-ups of the arthritis in her hands, Plaintiff remains able to perform tasks and does not require
27 specialized care. AR 38. The ALJ concluded:

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Based on a review of the entire record and the hearing testimony,
the undersigned concludes the claimant’s subjective allegations of
debilitating pain and limitation precluding all work activity are not
supported by the objective evidence. Her daily activities are not
consistent with one who suffers such severe limitations as to
preclude all work activity. Finally, some of her alleged

impairments have been responsive to treatment and do not impose a disabling degree of limitations.

AR 38.

If the ALJ’s credibility finding is supported by substantial evidence in the record, courts “may not engage in second-guessing.” *Thomas*, 278 F.3d at 959. In accordance, this Court will likewise not second guess the ALJ’s assessment of Plaintiff’s credibility.

IX. Conclusion and Order

Based on the foregoing, the Court finds that the ALJ's decision that Plaintiff is not disabled is supported by substantial evidence in the record as a whole and is based on proper legal standards. Accordingly, this Court DENIES Plaintiff's appeal from the administrative decision of the Commissioner of Social Security. The Clerk of Court is directed to enter judgment in favor of Defendant, Nancy A. Berryhill, Acting Commissioner of Social Security, and against Plaintiff, Gloria Ann Charles.

IT IS SO ORDERED.

Dated: **November 16, 2018**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE