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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

REBECCA ANN MILLIKEN,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. 1:17-cv-01086-JDP

FINAL JUDGMENT AND ORDER
REGARDING PLAINTIFF’S SOCIAL
SECURITY COMPLAINT

This matter is before the court on the claimant’s complaint for judicial review of an unfavorable decision of the Commissioner of the Social Security Administration regarding her application for Supplemental Security Income. The parties have consented to entry of final judgment by the United States Magistrate Judge under the provisions of 28 U.S.C. § 636(c), with any appeal to the Court of Appeals for the Ninth Circuit. Claimant makes two arguments on appeal.

First, claimant argues that the presiding Administrative Law Judge (“ALJ”) improperly summarized her Residual Functioning Capacity (“RFC”) for the Vocational Expert (“VE”), leading the VE to identify potential jobs for claimant that claimant’s RFC would not permit her to perform. In response, the Commissioner argues that whether or not the ALJ correctly summarized the RFC, any error would be harmless because the ALJ identified at least one job that claimant could perform, which exists in sufficient numbers in the economy. We agree with defendant. We need not decide whether the ALJ erred in describing claimant’s RFC, since at least one of the positions identified by the VE as existing in sufficient numbers—specifically, the

1 position of hand bander—could be performed by claimant.

2 Second, claimant argues that the ALJ erred in discounting the opinion of Dr. Rambo. The
3 ALJ provided two reasons for giving Dr. Rambo’s opinion “little weight”: Dr. Rambo “had only
4 seen the claimant for one visit,” and “other records indicate that claimant continued to use drugs
5 and was not in remission from drug use” at the time of Dr. Rambo’s exam. The ALJ thus
6 discounted Dr. Rambo’s opinion that Dr. Rambo was able to separate the effects of claimant’s
7 mental impairments from the effects of her chemical dependency. Certified Administrative
8 Record (“CAR”) 22. The ALJ provides significant detail regarding those other records—
9 including extensive records of drug use, some of which post-dated Dr. Rambo’s examination of
10 plaintiff—and explains why they caused her to find that “the claimant’s statements concerning the
11 intensity, persistence and limiting effects of [her] symptoms are not credible to the extent they are
12 inconsistent with the residual functional capacity assessment.” CAR 19. The ALJ notes multiple
13 instances in which claimant made statements that the ALJ determined to be in conflict with other
14 portions of the record. Accordingly, we find that the ALJ did not err in discounting Dr. Rambo’s
15 opinion and that the ALJ sufficiently articulated a basis for according Dr Rambo’s report and
16 opinion “little weight.”

17 In sum, having reviewed the record, administrative transcript, briefs of the parties, and
18 applicable law, we find that the ALJ’s decision is supported by substantial evidence in the record
19 and is based on proper legal standards.

20 **Order**

21 Accordingly, we deny claimant’s appeal from the administrative decision of the
22 Commissioner of Social Security. The clerk of court is directed to enter judgment in favor of
23 defendant Nancy Berryhill, the Acting Commissioner of Social Security, and against claimant
24 Rebecca Ann Milliken. The clerk of the court is directed to close this case.

25 IT IS SO ORDERED.

26
27 Dated: January 23, 2019

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UNITED STATES MAGISTRATE JUDGE