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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

DAVID EDWARD HERNANDEZ,  Plaintiff,  v.  ANDREW M. SAUL, Commissioner of Social Security,  Defendant.
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Case No.: 1:20-cv-00041-BAM  
  
**ORDER REGARDING PLAINTIFF’S  
SOCIAL SECURITY COMPLAINT**

**INTRODUCTION**

Plaintiff David Edward Hernandez (“Plaintiff”) seeks judicial review of a final decision of the Commissioner of Social Security (“Commissioner”) denying his applications for disability insurance benefits under Title II and supplemental security income under Title XVI of the Social Security Act. The matter is currently before the Court on the parties’ briefs, which were submitted, without oral argument, to Magistrate Judge Barbara A. McAuliffe.<sup>1</sup>

Having considered the briefing and record in this matter, the Court finds the decisions of the Administrative Law Judge (“ALJ”) and the Appeals Council to be supported by substantial evidence

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<sup>1</sup> The parties consented to have a United States Magistrate Judge conduct all proceedings in this case, including entry of final judgment, pursuant to 28 U.S.C. § 636(c). (Doc. Nos. 6, 8, 21.)

1 in the record as a whole and based upon proper legal standards. Accordingly, this Court affirms the  
2 agency's determination to deny benefits for the period of October 15, 2011 to August 4, 2015.

3 **FACTS AND PRIOR PROCEEDINGS**

4 Plaintiff filed applications for disability insurance benefits and supplemental security income  
5 on December 5, 2011. AR 172-75, 176-81.<sup>2</sup> Plaintiff alleged that he became disabled on October 15,  
6 2011, due to lower back pain, heart problems, gout, chronic pain, and sleep apnea. AR 196. Plaintiff's  
7 application was denied initially and on reconsideration. AR 76-77, 120-27. Subsequently, Plaintiff  
8 requested a hearing before an ALJ. ALJ Tamia N. Gordon held a hearing on November 6, 2013, and  
9 issued an order denying benefits on January 17, 2014. AR 21-31. Plaintiff sought review of the ALJ's  
10 decision, which the Appeals Council denied, making the ALJ's decision the Commissioner's final  
11 decision. AR 1-6. Plaintiff then appealed the decision to United States District Court for the Northern  
12 District of California. On March 30, 2017, the U.S. District Court reversed the Commissioner's final  
13 decision and remanded for further proceedings. AR 1168-77.

14 While the civil action was pending, Plaintiff filed a new application for supplemental social  
15 security income on August 4, 2015. AR 1184. The second application was granted with a finding of  
16 disability on August 4, 2015. AR 1184. The Appeals Council then permitted the ALJ on remand to  
17 potentially reopen and revise the disability determination. AR 1184.

18 On remand, a second ALJ, Ruxanna Meyer, held a rehearing on September 13, 2017, and  
19 issued an order denying benefits on July 18, 2018. AR 1093-134, 1187-1203. The ALJ declined to  
20 reopen the August 4, 2015 application. AR 1190-91. As to the original application, the ALJ issued a  
21 decision for the unadjudicated period between October 15, 2011 and August 4, 2015 (the period  
22 between the original onset date and the second application). AR 1190-203. Plaintiff requested review  
23 and the Appeals Council issued a decision on November 12, 2019. AAR 1085-92. The Appeals  
24 Council made some findings but ultimately concluded Plaintiff was not disabled from October 15,  
25 2011 to August 3, 2015. AR 1089-92. This appeal followed.

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28 <sup>2</sup> References to the Administrative Record will be designated as "AR," followed by the appropriate page number.

1                    **Hearing Testimony**

2                    The ALJ held a hearing on September 13, 2017, in Fresno, California. Plaintiff appeared with  
3 her attorney, Robert Ishikawa. Cheryl Chandler, an impartial vocational expert, also appeared. AR  
4 1093.

5                    Plaintiff testified that he lives in an assisted living facility for disabled persons. AR 1099.  
6 Plaintiff further testified that from October 2011 to the time of the hearing, he gained about 130  
7 pounds. AR 1099-100. During the period at issue (October 2011 to August 2015), Plaintiff gained  
8 about 115-120 pounds, which he attributed to taking prednisone. AR 1100. Prednisone is prescribed to  
9 Plaintiff for blood clots. AR 1100.

10                  Plaintiff testified that he is able to drive and has disabled parking. AR 1101. He has been able  
11 to drive for the year prior to the hearing. AR 1101. Prior to obtaining a vehicle last year, Plaintiff used  
12 disabled persons transportation services and public transportation to get around. AR 1102. Plaintiff  
13 further testified that he has his GED and did some vocational training. AR 1102.

14                  Plaintiff testified that he last worked in December 2008. AR 1102. He was working in  
15 machinery and tools and was walking and standing approximately six hours a day, was lifting about 50  
16 pounds at the heaviest and 10 pounds at the lightest, and supervised 25 people. AR 1102. Plaintiff  
17 mostly worked in a jobsite foreman position. AR 1102. Plaintiff was then laid off from that position.  
18 AR 1103-04. Plaintiff further testified that he attempted to find work elsewhere but in October 2011  
19 he fell off a ladder and injured himself. AR 1105-06. Plaintiff also testified that he worked for a  
20 furniture company where he was constructing furniture and installing furniture. AR 1122.

21                  In response to questions by his attorney, Plaintiff testified that he started using a cane after he  
22 had a stent put in in December 2011. AR 1107. The use of a cane was prescribed. AR 1107. Plaintiff  
23 explained that after his stent was put in, he had blood clots in his legs and lungs, and had bad knees, so  
24 he was prescribed the cane to avoid falling. AR 1108. After receiving the stent, Plaintiff would get  
25 chest pains for once or twice a month for a couple of days at a time. AR 1108. He would be  
26 hospitalized for the pain on these occasions. AR 1108. The chest pains would occur upon exertion or  
27 activity. AR 1108. Plaintiff further testified that between 2011 and 2013 he would need to have his  
28 knees elevated at least half the day. AR 1109.

1 Plaintiff also testified that he has back problems at the L4-L5 and C3 vertebrae. AR 1110.  
2 Plaintiff testified that the pain is constant and chronic. AR 1110. Plaintiff also testified that has sciatica  
3 pain a couple times a day for a few minutes at a time, where the pain shoots down his leg to his feet.  
4 AR 1111.

5 Plaintiff further testified that he was diagnosed with diabetes in 2014 and takes metformin and  
6 insulin. AR 1111. Plaintiff testified that activity aggravated his back, particularly standing up,  
7 walking, and sitting down. AR 1112. Plaintiff also testified that he has pain on the C3 vertebrae that is  
8 aggravated by looking up, and sometimes to the left. AR 1113. Plaintiff testified that he has  
9 neuropathy as a result of his diabetes. AR 1113. Plaintiff also testified that the pain he experiences  
10 affects his ability to stay focused and pay attention. AR 1114.

11 Plaintiff further testified that he has sleep apnea which reduces his sleep to about 2-3 hours a  
12 night. AR 1114. Plaintiff uses ice and pain medication to help alleviate the pain. AR 1115-16. Physical  
13 therapy was not helpful because Plaintiff was in too much pain. AR 1116. Plaintiff further testified  
14 that his depression makes him shake and feel useless. AR 1116-17. Plaintiff's depression causes  
15 problems with concentration and pain intensity. AR 1117.

16 Following Plaintiff's testimony, the ALJ elicited testimony from the vocational expert ("VE")  
17 Cheryl Chandler. The VE characterized Plaintiff's past work as light but performed at the medium  
18 level, SVP 7, and semiskilled, heavy, SVP 4. AR 1121, 1122. The ALJ also asked the VE hypothetical  
19 questions. For the first hypothetical, the ALJ asked the VE to assume an individual of Plaintiff's age,  
20 education, and past work experience. The ALJ also asked the VE to assume an individual who could  
21 lift or carry 20 pounds occasionally, lift 10 pounds frequently, stand for 6 hours in an 8-hour workday,  
22 sit for 6 hours in an 8-hour workday, perform occasional climbing of stairs and ramps, occasional  
23 stooping, kneeling, and crawling, frequent balancing and crouching, is to avoid ladders, ropes, and  
24 scaffolds as well as avoiding concentrated exposure to hazards such as moving machinery and  
25 unprotected heights. AR 1124-25. The VE testified that there would not be work in the national  
26 economy with transferrable skills from Plaintiff's past work. AR 1125. The VE further testified that he  
27 could perform jobs at the light, unskilled level such as salesperson, general hardware, cashier, and  
28 counter clerk that such an individual could perform. AR 1125-27.

1 For the second hypothetical, the ALJ asked the VE to take hypothetical one but that the  
2 individual could only stand and walk for a total of 4 hours in an 8-hour workday. AR 1127. The VE  
3 testified that there would be jobs in the national economy including cashier, counter clerks, and  
4 courier. AR 1128.

5 For the third hypothetical, the ALJ asked the VE to take hypothetical two but that individual  
6 would be able to perform simple, routine tasks. AR 69. The VE testified that there would still remain  
7 jobs in the national economy that such an individual could perform. AR 69. The VE further testified  
8 that due to the change in age category, as experienced by Plaintiff during the relevant time, the  
9 following jobs at the sedentary level would also be available, ticket counter worker, charge accounts  
10 clerk, and assembler. AR 1130.

11 For the fourth hypothetical, the ALJ asked the VE to assume an individual that can lift or carry  
12 20 pounds occasionally, lift 10 pounds frequently, sit or stand but not for extended periods of time  
13 defined as more than two hours, perform work that does not involve driving, climbing ladders, or  
14 using power equipment, perform work that does not involve repetitive stooping defined as occasional  
15 stooping, and would require a job that permits a period of sitting after 15 minutes of standing or  
16 walking. AR 1130-31. The VE testified that such an individual would not be able to work. AR 1131.

17 **Medical Record**

18 The relevant medical record was reviewed by the Court and will be referenced below as  
19 necessary to this Court's decision.

20 **The ALJ's Decision**

21 Using the Social Security Administration's five-step sequential evaluation process, the ALJ  
22 determined that Plaintiff was not disabled under the Social Security Act. AR 1191. Specifically, the  
23 ALJ found that Plaintiff had not engaged in substantial gainful activity from the alleged onset date of  
24 October 15, 2011, to the date last insured, December 21, 2013. AR 1193. The ALJ identified coronary  
25 artery disease status post coronary angioplasty with stent placement, morbid obesity, degenerative disc  
26 disease of the lumbar and cervical spine, degenerative joint disease of the right knee with meniscal  
27 tear, history of deep vein thrombosis, secondary to anticoagulation therapy, diabetes mellitus type II,  
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1 and sleep apnea with CPAP as severe impairments. AR 1193. The ALJ determined that the severity of  
2 Plaintiff's impairments did not meet or equal any of the listed impairments. AR 1194.

3 Based on a review of the entire record, the ALJ found that Plaintiff retained the residual  
4 functional capacity ("RFC") to lift and carry up to 20 pounds occasionally, and 10 pounds frequently,  
5 stand and walk for four hours in an eight-hour workday, and sit for six hours in an eight-hour  
6 workday, occasionally climb ramps and stairs, occasionally balance, stoop, kneel, crouch, and crawl,  
7 could not complete work that involves climbing ladders, ropes, or scaffolds, concentrated exposure to  
8 hazards such as heavy machinery, or unprotected heights. AR 1194-201. With this RFC, the ALJ  
9 found that Plaintiff could not perform his past relevant work as an assistant construction  
10 superintendent or furniture assembler installer. AR 1201. Alternatively, the ALJ concluded that  
11 Plaintiff could perform other jobs in the national economy, such as cashier, counter clerk, and courier.  
12 AR 1202-03. The ALJ therefore concluded that Plaintiff was not disabled under the Social Security  
13 Act. AR 1203.

#### 14 **The Appeals Council's Decision**

15 On November 12, 2019, the Appeals Council ("AC") issued a decision finding that Plaintiff  
16 was not disabled for the period of October 15, 2011 thorough August 4, 2015. AR 1092. The AC  
17 adopted the ALJ's "statements regarding the pertinent provisions of the Social Security Act, Social  
18 Security Regulations, Social Security Rulings and Acquiescence Rulings, issues in the case and  
19 evidentiary facts, as applicable." AR 1089. However, the AC declined to adopt the ALJ's findings  
20 regarding Plaintiff's second application. AR 1089. Specifically, the AC declined to accept the ALJ's  
21 finding that Plaintiff was not disabled through the decision date of July 18, 2018, where under  
22 Plaintiff's second application Plaintiff was found to be disabled beginning August 4, 2015. AR 1089.  
23 Otherwise, the AC adopted the ALJ's findings regarding whether Plaintiff was disabled. AR 1090.

24 The AC, however, did not agree with the ALJ's evaluation of treating source, Anupama  
25 Poliyedath, M.D. AR 1090. The ALJ accorded Dr. Poliyedath's opinion discounted weight because it  
26 was temporary and did not meet the 12-month durational requirement and the opinion was  
27 unsupported by the medical records. AR 1090. Notwithstanding, the AC accorded the opinion partial  
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1 but not controlling weight. AR 1091. The AC's decision is otherwise an adoption of the ALJ's  
2 decision.

### 3 SCOPE OF REVIEW

4 Congress has provided a limited scope of judicial review of the Commissioner's decision to  
5 deny benefits under the Act. In reviewing findings of fact with respect to such determinations, this  
6 Court must determine whether the decision of the Commissioner is supported by substantial evidence.  
7 42 U.S.C. § 405(g). Substantial evidence means "more than a mere scintilla," *Richardson v. Perales*,  
8 402 U.S. 389, 402 (1971), but less than a preponderance. *Sorenson v. Weinberger*, 514 F.2d 1112,  
9 1119, n. 10 (9th Cir. 1975). It is "such relevant evidence as a reasonable mind might accept as  
10 adequate to support a conclusion." *Richardson*, 402 U.S. at 401. The record as a whole must be  
11 considered, weighing both the evidence that supports and the evidence that detracts from the  
12 Commissioner's conclusion. *Jones v. Heckler*, 760 F.2d 993, 995 (9th Cir. 1985). In weighing the  
13 evidence and making findings, the Commissioner must apply the proper legal standards. *E.g.*,  
14 *Burkhart v. Bowen*, 856 F.2d 1335, 1338 (9th Cir. 1988). This Court must uphold the Commissioner's  
15 determination that the claimant is not disabled if the Commissioner applied the proper legal standards,  
16 and if the Commissioner's findings are supported by substantial evidence. *See Sanchez v. Sec'y of*  
17 *Health and Human Servs.*, 812 F.2d 509, 510 (9th Cir. 1987).

### 18 REVIEW

19 In order to qualify for benefits, a claimant must establish that he or she is unable to engage in  
20 substantial gainful activity due to a medically determinable physical or mental impairment which has  
21 lasted or can be expected to last for a continuous period of not less than twelve months. 42 U.S.C. §  
22 1382c(a)(3)(A). A claimant must show that he or she has a physical or mental impairment of such  
23 severity that he or she is not only unable to do his or her previous work, but cannot, considering his or  
24 her age, education, and work experience, engage in any other kind of substantial gainful work which  
25 exists in the national economy. *Quang Van Han v. Bowen*, 882 F.2d 1453, 1456 (9th Cir. 1989). The  
26 burden is on the claimant to establish disability. *Terry v. Sullivan*, 903 F.2d 1273, 1275 (9th Cir.  
27 1990).

1 **DISCUSSION**<sup>3</sup>

2 **A. The ALJ Did Not Err in Evaluating the Opinion of Dr. Birgit Siekerkotte**

3 Plaintiff first argues that the ALJ erred in evaluating the opinion of consultative examiner,  
4 Birgit Siekerkotte, M.D. (Doc. No. 17 at 6.)

5 On January 13, 2016, Dr. Siekerkotte completed a consultative evaluation. Plaintiff  
6 complained of low back pain, knee pain bilaterally, diabetes neuropathy, lower extremity edema and  
7 discoloration, status post PE, status post DVT, status post myocardial infraction, congestive heart  
8 failure, COPD, and depression. AR 1326. As to his daily activities, Plaintiff reported that he needs  
9 help washing his feet and dressing, denies being able to sweep, mop, vacuum, do dishes, do laundry,  
10 shop, or cook. AR 1327. Plaintiff also reported that he spends most of his days watching tv and  
11 reading. AR 1327.

12 On examination, Dr. Siekerkotte observed that Plaintiff was morbidly obese, had some  
13 discoloration on his lower legs, walks with a limp and is unable to stand on toes and heels. AR 1329.  
14 Plaintiff also reported that he uses a two-wheel walker and cane at home, as well as a CPAP machine,  
15 oxygen concentrator, and accu-check. AR 1329. Dr. Siekerkotte opined that Plaintiff would have a  
16 maximum standing/walking capacity of less than two hours, no limitations on sitting, requires the  
17 assistive devices of a cane, two-wheel walker, CPCP, oxygen concentrator and accu-check, could  
18 lift/carry less than 10 pounds occasionally and frequently, could never climb ladders, could  
19 occasionally climb stairs, stoop, crouch, and crawl, could occasionally reach overhead, reaching, and  
20 handling, and could limitedly work at heights, around heavy machinery, and around dust, fumes, and  
21 gases. AR 1330-31.

22 The ALJ assigned discounted weight to Dr. Siekerkotte's opinion as it was rendered 4 months  
23 after the relevant period. AR 1199. The ALJ also discounted the opinion because the medical evidence  
24 did not support that a cane was medically necessary for the durational requirement or that it was  
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27 <sup>3</sup> The parties are advised that this Court has carefully reviewed and considered all of the briefs, including arguments,  
28 points and authorities, declarations, and/or exhibits. Any omission of a reference to any specific argument or brief is not to be construed that the Court did not consider the argument or brief.

1 prescribed by an acceptable medical source. AR 1199. Plaintiff asserts that the ALJ did not provide  
2 sufficient reasons for discounting Dr. Siekerkotte’s opinion. The Court disagrees.

3 Cases in this circuit identify three types of physicians: (1) those who treat the claimant  
4 (treating physicians); (2) those who examine but do not treat the claimant (examining physicians); and  
5 (3) those who neither examine nor treat the claimant (non-examining physicians). *Lester v. Chater*, 81  
6 F.3d 821, 830 (9th Cir. 1995). As a general rule, more weight should be given to the opinion of a  
7 treating source than to the opinions of doctors who do not treat the claimant. *Id.* Where a treating  
8 physician’s opinion is not contradicted by another doctor, it may be rejected only for “clear and  
9 convincing” reasons. *Id.* If the treating physician’s opinion is contradicted by another doctor, the  
10 Commissioner must provide “specific and legitimate” reasons supported by substantial evidence in the  
11 record to reject this opinion. *Id.*

12 As with a treating physician, the Commissioner also must provide “clear and convincing”  
13 reasons for rejecting the uncontradicted opinion of an examining physician. *Lester*, 81 F.3d at 830. If  
14 contradicted, the opinion of an examining physician can only be rejected for “specific and legitimate  
15 reasons” that are supported by substantial evidence in the record. *Id.* at 830-31. The opinion of a non-  
16 examining physician alone is not substantial evidence that justifies the rejection of the opinion of  
17 either a treating or examining physician. *Id.* at 831.

18 The ALJ first discounted Dr. Siekerkotte’s opinion because it was rendered 4 months after the  
19 relevant period. AR 1199. Medical evaluations made after the expiration of the claimant’s insured  
20 period is relevant to the pre-expiration condition. *Lester*, 81 F.3d at 833; *Smith v. Bowen*, 849 F.2d  
21 1222, 1224-25 (9th Cir. 1988) (holding that three doctors' medical evaluations rendered three to nine  
22 years after the expiration of the insured status were relevant when evaluating the pre-expiration  
23 condition); *Hartman v. Bowen*, 636 F. Supp. 129, 132 (N.D. Cal. 1986) (explaining although plaintiff  
24 has to establish that disability existed prior to the expiration date, she is limited to evidence that  
25 existed pre-expiration); *Garcia v. Saul*, 2020 WL 4882499 at \*15 (S.D. Cal. August 20, 2020) (finding  
26 medical opinion relevant where rendered six days after expiration of insured period). Here, the period  
27 of disability at issue ends on August 4, 2015 and Dr. Siekerkotte’s opinion was rendered on January  
28 13, 2016. The ALJ considered the opinion, but partially discounted the opinion based on the date the

1 opinion was rendered. However, the ALJ also accorded the opinion discounted weight based on the  
2 medical evidence. Therefore, the ALJ's reliance on the opinion issued after the relevant period is not  
3 error.

4 In considering the opinion, the ALJ discounted Dr. Siekerkotte's opinion because it was not  
5 supported by the medical evidence. Specifically, the ALJ discounted Dr. Siekerkotte's opinion as to  
6 the need of a cane. AR 1199. An ALJ may reject the opinion of the examining physician where the  
7 limitations imposed are inconsistent with objective evidence in the record. *Tommasetti v. Astrue*, 533  
8 F.3d 1035, 1041 (9th Cir. 2008) (finding that ALJ provided specific and legitimate reason for  
9 discounting physician's opinion where opinion was inconsistent with medical records); *Batson v.*  
10 *Comm'r of Soc. Sec. Admin.*, 359 F.3d 1190, 1195 (9th Cir. 2004) (finding that an ALJ may discredit  
11 treating physicians' opinions that are conclusory, brief, and unsupported by the record as a whole or  
12 by objective medical findings). According to the objective medical record, and as identified by the  
13 ALJ, a progress note rendered in July 2015 found Plaintiff has no acute process and was in stable  
14 condition. AR 1199. Further, the ALJ identified that the last pain management progress notes from  
15 July 2015 stated that Plaintiff's pain was moderately well controlled, and exercise was encouraged.  
16 AR 1199. Additionally, a June 2015 neurological examination found that Plaintiff's motor abilities  
17 were grossly normal, and all extremities moved well. AR 1199.

18 In March 2012, consultative examiner Rustom Damania, M.D., examined Plaintiff. AR 381-86.  
19 Dr. Damania noted that Plaintiff had normal range of motion, straight leg test negative at 90 degrees,  
20 and Plaintiff had normal gait. AR 384. Dr. Damania opined that Plaintiff could lift up to 20 pounds  
21 occasionally, 10 pounds frequently, and could sit, walk, and stand with no restriction. AR 386. Dr.  
22 Damania also opined that no assistive device was necessary for ambulation. AR 386. The ALJ  
23 accorded the opinion great weight as it was consistent with the examination notes and observations,  
24 including noting susceptibility of the diabetes to control by diet. AR 1198.

25 State agency examiner A. Nasrabadi, M.D., opined that Plaintiff retained the residual  
26 functional capacity to lift and carry up to 20 pounds occasionally, 10 pounds frequently, stand and  
27 walk for 4 hours in an 8-hour workday, sit for 6 hours in an 8-hour workday, was precluded from  
28 climbing ladders, ropes, or scaffolds, but could occasionally climb ramps and stairs, was capable of

1 occasionally balancing, stooping, kneeling, crouching, and crawling, but should avoid concentrated  
2 exposure to hazards such as heavy machinery and heights. AR 103-05. The opinion was adopted by  
3 Dr. J. Linder in December 2012. AR 103-05. The ALJ accorded the opinion great weight as it was in  
4 accord with the overall medical evidence of the relevant period. AR 1199.

5 Dr. Poliyedath at Internal Medicine completed an evaluation of Plaintiff in January 2013. AR  
6 794-96. The evaluation indicated that Plaintiff was unable to drive, climb ladders, use power  
7 equipment, engage in repetitive bending or lifting, or stand or walk less than 15 minutes in an hour.  
8 AR 795-96. The ALJ found that the opinion appeared to be based on the Plaintiff's subjective  
9 complaints, rather than on medical restrictions associated with orthopedic, coronary, or endocrinal  
10 impairments. AR 1198.

11 "It is clear that it is the responsibility of the ALJ, not the claimant's physician, to determine  
12 residual functional capacity." *Vertigan v. Halter*, 260 F.3d 1044, 1049 (9th Cir. 2001). An RFC "is the  
13 most [one] can still do despite [his or her] limitations" and it is "based on all the relevant evidence in  
14 [one's] case record," rather than a single medical opinion or piece of evidence. 20 C.F.R. §  
15 404.1545(a)(1). While it is true that an ALJ is "not qualified to interpret raw medical data in functional  
16 terms," *Padilla v. Astrue*, 541 F.Supp.2d 1102, 1106 (C.D. Cal. 2008), the ALJ is not precluded from  
17 making an RFC finding that differs from assessments contained in medical source statements. Indeed,  
18 "[t]he ALJ's RFC determination need not precisely reflect any particular medical provider's  
19 assessment." *Holcomb v. Comm'r Soc. Sec.*, No. 2:17-cv-02268-KJM-CKD, 2019 WL 176266, at \*4  
20 (E.D. Cal. Jan. 11, 2019) (citing *Turner v. Comm'r Soc. Sec. Admin.*, 613 F.3d 1217, 1222-23 (9th Cir.  
21 2010)).

22 Here, the ALJ cited medical evidence and treatment records to support her RFC finding that  
23 Plaintiff retained the residual functional capacity to lift and carry up to 20 pounds occasionally, and 10  
24 pounds frequently, stand and walk for four hours in an eight-hour workday, and sit for six hours in an  
25 eight-hour workday, occasionally climb ramps and stairs, occasionally balance, stoop, kneel, crouch,  
26 and crawl, could not complete work that involves climbing ladders, ropes, or scaffolds, concentrated  
27 exposure to hazards such as heavy machinery, or unprotected heights. AR 1194-201. Plaintiff does not  
28 argue that the RFC is not supported by the medical evidence but instead takes issue with the ALJ's

1 determination as to the lift/carry capacity of Plaintiff. However, an ALJ is not precluded from making  
2 an RFC finding that differs from assessments contained in medical source statements. “The ALJ’s  
3 RFC determination need not precisely reflect any particular medical provider’s assessment.” *Holcomb*,  
4 No. 2:17-cv-02268-KJM-CKD, 2019 WL 176266, at \*4. The ALJ found that Plaintiff had the RFC to  
5 lift 10 pounds frequently. Dr. Siekerkotte opined Plaintiff could lift/carry less than 10 pounds  
6 occasionally and frequently. Dr. Siekerkotte’s opinion also noted that Plaintiff has no sensory defects,  
7 with normal sensation and reflex, muscle strength, and tone. AR 1329. The ALJ also noted the same  
8 limitations in her opinion. The ALJ discussed all the relevant medical evidence on the record and  
9 determined that Plaintiff retained the capacity to lift 10 pounds frequently. The ALJ articulated  
10 legitimate reasons for according Dr. Siekerkotte’s opinion less weight.

11 For these reasons, the Court finds that the ALJ did not err in evaluating the opinion of Dr.  
12 Siekerkotte and assigning it discounted weight.

13 **CONCLUSION**

14 Based on the foregoing, the Court finds that the ALJ’s decision is supported by substantial  
15 evidence in the record as a whole and is based on proper legal standards. Accordingly, this Court  
16 **DENIES** Plaintiff’s appeal from the administrative decision of the Commissioner of Social Security.  
17 The Clerk of this Court is **DIRECTED** to enter judgment in favor of Defendant Andrew M. Saul,  
18 Commissioner of Social Security, and against Plaintiff David Edward Hernandez.

19  
20 IT IS SO ORDERED.

21 Dated: March 31, 2021

22 /s/ Barbara A. McAuliffe  
23 UNITED STATES MAGISTRATE JUDGE  
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