

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHARLES SIDNEY YARBROUGH,  
Plaintiff,  
v.  
COMMISSIONER OF SOCIAL  
SECURITY,  
Defendant.

No. 2:17-cv-1953-KJN

ORDER

Plaintiff Charles Sidney Yarbrough, who proceeds without counsel, seeks judicial review of a final decision by the Commissioner of Social Security (“Commissioner”) denying plaintiff’s claim for Widower’s Insurance Benefits under Title II of the Social Security Act. After carefully reviewing the parties’ briefing (ECF Nos. 15, 18, 20), the court AFFIRMS the Commissioner’s final decision.<sup>1</sup>

The court reviews the Commissioner’s decision to determine whether (1) it is based on proper legal standards pursuant to 42 U.S.C. § 405(g), and (2) substantial evidence in the record as a whole supports it. Tackett v. Apfel, 180 F.3d 1094, 1097 (9th Cir. 1999). Substantial evidence is more than a mere scintilla, but less than a preponderance. Connett v. Barnhart, 340

---

<sup>1</sup> All parties voluntarily consented to the jurisdiction of a United States Magistrate Judge for all purposes pursuant to 28 U.S.C. § 636(c). (ECF Nos. 6, 16.)


1 F.3d 871, 873 (9th Cir. 2003) (citation omitted). It means “such relevant evidence as a reasonable  
2 mind might accept as adequate to support a conclusion.” Orn v. Astrue, 495 F.3d 625, 630 (9th  
3 Cir. 2007), quoting Burch v. Barnhart, 400 F.3d 676, 679 (9th Cir. 2005).

4 In this case, the ALJ found that, although plaintiff was validly married under California  
5 law to his deceased spouse, Mary Beth Rosson, from February 26, 2014, to September 28, 2014,  
6 plaintiff did not meet the nine-month duration of marriage requirement for Widower’s Insurance  
7 Benefits; nor did he satisfy any of the statutory exceptions to that requirement. See 42 U.S.C. §  
8 416(g). On appeal, plaintiff does not challenge the ALJ’s underlying factual findings, but  
9 contends that the nine-month duration of marriage requirement is unfair and violates the United  
10 States Constitution. Although the court is sympathetic to plaintiff’s plight, plaintiff’s argument is  
11 plainly foreclosed by the United States Supreme Court’s decision in Weinberger v. Salfi, 422  
12 U.S. 749 (1975), which expressly found the Act’s duration of relationship requirement  
13 constitutional.<sup>2</sup> Additionally, contrary to plaintiff’s contention, the requirement does not conflict  
14 with California law, which does not purport to define the contours and rules of a federal benefits  
15 program.

16 Accordingly, the final decision of the Commissioner is AFFIRMED, and the Clerk of  
17 Court shall close this case.

18 IT IS SO ORDERED. This order resolves ECF Nos. 15 and 18.

19 Dated: November 15, 2018

20   
21 \_\_\_\_\_  
KENDALL J. NEWMAN  
22 UNITED STATES MAGISTRATE JUDGE

23 <sup>2</sup> As the Supreme Court explained, the duration of relationship requirement was enacted primarily  
24 as a prophylactic rule to prevent sham marriages for benefits. See Weinberger, 422 U.S. at 777.  
25 To be clear, neither the Commissioner nor this court suggests that plaintiff’s marriage in this case  
26 was actually a sham marriage to procure benefits. Indeed, the Supreme Court acknowledged that  
27 legitimate marriages may sometimes be swept within the ambit of the rule: “The question is  
28 whether Congress, its concern having been reasonably aroused by the possibility of an abuse  
which it legitimately desired to avoid, could rationally have concluded both that a particular  
limitation or qualification would protect against its occurrence, and that the expense and other  
difficulties of individual determinations justified the inherent imprecision of a prophylactic rule.”  
Id. Nevertheless, regardless of the rule’s potential imprecision and shortcomings, the Supreme  
Court held that it passed constitutional muster, and this court is bound by that holding.