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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

JEFFREY W. STILLMAN,  
Plaintiff,  
v.  
CAROLYN W. COLVIN,  
Acting Commissioner of Social Security,  
Defendant.

Case No. [5:14-cv-05573-EJD](#)

**ORDER DENYING PLAINTIFF'S  
MOTION FOR SUMMARY  
JUDGMENT; GRANTING  
DEFENDANT'S CROSS MOTION FOR  
SUMMARY JUDGMENT**

Re: Dkt. No. 13, 18

Plaintiff Jeffrey W. Stillman ("Plaintiff") brought this action pursuant to 42 U.S.C. § 405(g) to obtain review of the decision of the Commissioner of Social Security (the "Commissioner") denying Plaintiff's application for Social Security Disability benefits. Plaintiff's motion for Summary Judgment seeks an order reversing the Commissioner's final decision denying benefits and remanding the matter to award benefits, or in the alternative, a remand for further administrative proceedings. Having carefully considered the relevant documents submitted by both parties, the court DENIES Plaintiff's Motion for Summary Judgment, and GRANTS the Commissioner's Cross-Motion for Summary Judgment for the reasons explained below.

**I. FACTUAL AND PROCEDURAL BACKGROUND**

**A. Procedural History**

On September 20, 2012, Plaintiff filed for Social Security Disability Insurance Benefits under Title II of the Social Act. Administrative Transcript ("Tr.") at 119–121. Plaintiff's claim was initially denied by the Social Security Administration on April 11, 2013 because his condition was not deemed disabling on any date through December 31, 2012. Tr. at 79–84. Plaintiff's

1 request for reconsideration was granted and the Social Security Administration again denied his  
2 claim on October 29, 2013. Tr. at 91–96.<sup>1</sup>

3 Subsequently, Plaintiff requested a hearing before an Administrative Law Judge (“ALJ”),  
4 which occurred before ALJ Christopher Inama on May 7, 2014. Tr. at 29–63. Following the  
5 hearing, the ALJ rendered an unfavorable decision on July 25, 2014. Tr. at 9–28. On October 27,  
6 2014, the Appeals Council denied the request for review, and the ALJ’s decision became the final  
7 decision of the Administration. Tr. at 1–5.

8 Plaintiff filed the instant action requesting judicial review of the Administration’s decision on  
9 December 22, 2014. See Compl., Docket Item No. 1. Plaintiff moved for summary judgment on  
10 June 26, 2015. See Docket Item No. 13. The Commissioner filed a cross-motion for summary  
11 judgment on September 8, 2015. See Docket Item No. 18.

12 **B. Plaintiff’s Personal, Vocational and Medical History**

13 Plaintiff was born on June 16, 1962. Tr. at 104. He was fifty years old on the last date he  
14 was insured, December 31, 2012. Tr. at 21. After earning a bachelor’s degree from New York  
15 University in 1988, he started working in the construction industry. Tr. at 144–146. Plaintiff  
16 alleges disability due to mental impairments. Tr. at 128–142. He has been diagnosed with bipolar  
17 disorder and psychotic disorder. Tr. at 17. He also alleges post-traumatic stress disorder (PTSD)  
18 stemming from several traumatic events, including sexual assault when he was 12 years old, and a  
19 rape and kidnapping in early 1980s. Id. The record also shows treatment for some physical  
20 complaints, such as shoulder, back, and neck pain. Id.

21 Plaintiff also has a documented history of drug and alcohol abuse, and his psychotic  
22 symptoms have been linked to substance abuse or withdrawal. Id. at 17–18. The record shows a  
23 number of hospitalizations related to drug or alcohol.<sup>2</sup>

24  
25 <sup>1</sup> The relevant document is not dated in the Administrative Transcript. However, the ALJ notes  
26 that Plaintiff’s claim was denied upon reconsideration on October 29, 2013. Tr. at 12.

27 <sup>2</sup> In March 2011, Plaintiff was twice discharged with an alcohol and cocaine related diagnosis at  
28 the Jersey City Medical Center. Tr. at 277-285, 285-397. During 2012, Plaintiff, on three

1 With the alleged onset dated April 1, 2008, Plaintiff has not worked since 2008 when he  
2 was fired from his last full-time job because he became argumentative and hostile with a  
3 supervisor. Tr. at 40. Plaintiff testified during a 2014 hearing that he worked for two days with a  
4 construction firm in San Francisco, but lost the job again due to his inability to tolerate superiors  
5 and subordinates whom he did not feel were acting according to his wishes. Id. As to his interest  
6 in working in different fields, Plaintiff further testified that he has a “problem with this issue,”  
7 because the thought of making less money than he had in construction—purportedly \$120,000 a  
8 year—made him “incredibly angry.” Tr. at 46.

9 **II. LEGAL STANDARD**

10 **A. Standard for Reviewing the ALJ’s Decision**

11 The Court has authority to review an ALJ’s decision denying disability benefits. 42 U.S.C.  
12 § 405(g). The Social Security Act states that, upon review of the Secretary’s decision by the  
13 district court, “[t]he findings of the Secretary as to any fact, if supported by substantial evidence,  
14 shall be conclusive ...” Id. Accordingly, the Court’s jurisdiction is limited to determining whether  
15 the denial of benefits is supported by substantial evidence in the administrative record. Reversal  
16 of an ALJ’s decision is only appropriate where it is not supported by substantial evidence or the  
17 decision is based on legal error. Id.; accord Vertigan v. Halter, 260 F.3d 1044, 1049 (9th Cir.  
18 2001).

19 “Substantial evidence” is more than a scintilla, but less than a preponderance. Thomas v.  
20 Barnhart, 278 F.3d 947, 954 (9th Cir. 2002). The inquiry here is whether the record, read as a  
21 whole, yields such evidence as would allow a reasonable mind to accept the conclusions reached  
22 by the ALJ. Richardson v. Perales, 402 U.S. 381, 401 (1971); Sample v. Schweiker, 694 F.2d

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25 different occasions, presented to Stanford Hospital and was diagnosed with alcohol and cocaine  
26 abuse. Tr. at 406–477. On his last visit in May 2012, Plaintiff reported he relapsed on alcohol  
27 right after his previous discharge. Id. Plaintiff’s continued alcohol problem was also evident  
28 during the hearing before the ALJ—Plaintiff admitted to drinking just ten days prior, and admitted  
that he was evicted from his recovery house in February 2014 for consuming alcohol. Tr. at 43–  
44.

1 639, 642 (9th Cir. 1982). Where evidence is susceptible of more than one rational interpretation, it  
2 is the ALJ’s conclusion which must be upheld, and in reaching his findings, the ALJ is entitled to  
3 draw inferences logically flowing from the evidence. Rhinehart v. Finch, 438 F.2d 920, 921 (9th  
4 Cir.1971); see also Beane v. Richardson, 457 F.2d 758 (9th Cir. 1972).

5 **B. Standard for Determining Disability**

6 Disability is the “inability to engage in any substantive gainful activity by reason of any  
7 medically determinable physical or mental impairment which can be expected to result in death or  
8 which has lasted or can be expected to last for a continuous period of not less than twelve  
9 months.” 42 U.S.C. § 423(d)(1)(A). The impairment must be so severe that an applicant is unable  
10 to do her previous work, and cannot “engage in any other kind of substantial gainful work which  
11 exists in the national economy,” given the applicant’s age, education, and work experience. 42  
12 U.S.C. § 423(d)(2)(A).

13 The ALJ evaluates Social Security disability claims using a five-step process. 20 C.F.R.  
14 §§ 404.1520, 416.920. The steps are as follows:

- 15 1) The ALJ must first determine whether the applicant is presently engaged in  
16 substantially gainful activity. 20 C.F.R. §§ 404.1520(b), 416.920(b). If so, the  
17 applicant is not disabled; otherwise the evaluation proceeds to step two.
- 18 2) The ALJ must determine whether the applicant has a severe impairment or  
19 combination of impairments. 20 C.F.R. §§ 404.1520(c), 416.920(c). If not, the  
20 applicant is not disabled; otherwise the evaluation proceeds to step three.
- 21 3) The ALJ must determine whether the applicant’s impairment or combination of  
22 impairments meets or medically equals the requirements of the Listing of  
23 Impairments. 20 C.F.R. §§ 404.1520(d), 416.920(d). If so, the applicant is disabled;  
24 otherwise, the analysis proceeds to step four.
- 25 4) The ALJ must determine the applicant’s residual functional capacity (“RFC”) despite  
26 limitations from the applicant’s impairments. 20 C.F.R. §§ 404.1520(e), 416.920(e).

1 If the applicant can still perform work that the individual has done in the past, the  
2 applicant is not disabled. If she cannot perform the work, the evaluation proceeds to  
3 step five. 20 C.F.R. §§ 404.1520(f), 416.920(f).

4 5) In this step, the Commissioner has the burden of demonstrating that the applicant is  
5 not disabled. Considering the applicant’s age, education, and vocational background,  
6 the Commissioner must show that the applicant can perform some substantial gainful  
7 work in the national economy. 20 C.F.R. §§ 404.1520(g), 416.920(g).

8 “The [applicant] carries the initial burden of proving a disability.” Ukolov v. Barnhart,  
9 420 F.3d 1002, 1004 (9th Cir. 2005). Consequently, the burden of proof is on the applicant as to  
10 steps one to four. As to step five, the burden shifts to the Commissioner. Tackett v. Apfel, 180  
11 F.3d 1094, 1098 (9th Cir. 1999). If an applicant is found to be “disabled” or “not disabled” at any  
12 step in the sequence, there is no need to consider subsequent steps. Id. If the applicant proves a  
13 prima facie case of disability, the burden shifts to the Commissioner to establish that the applicant  
14 can perform a “significant number of other jobs in the national economy.” Thomas, 278 F.3d at  
15 955. “The Commissioner can meet this burden through the testimony of a vocational expert or by  
16 reference to the Medical Vocational Guidelines at 20 C.F.R. pt. 404, subpt. P, app. 2.” Id.

17 **III. DISCUSSION**

18 The ALJ made the following findings and conclusions on the five steps: (1) for step one,  
19 the ALJ determined Plaintiff had not engaged in substantial gainful activity since Plaintiff’s  
20 alleged onset date of April 1, 2008 through his date last insured of December 31, 2012; (2) for step  
21 two, the ALJ determined Plaintiff has “severe” medical impairments, including affective disorder  
22 (bipolar disorder, history of schizophrenia and psychotic disorder correlated with alcohol abuse  
23 and withdrawal) and substance addiction disorder; (3) for step three, the ALJ determined Plaintiff  
24 did not have an impairment or combination of impairments that met or medically equaled the  
25 severity of one of the listed impairments; (4) for step four, the ALJ determined Plaintiff’s medical  
26 impairments precluded him from performing his past relevant work as it generally is performed;

1 (5) for step five, considering Plaintiff’s age, education, work experience, and RFC, the ALJ  
2 determined that there are jobs that existed in significant numbers in the national economy that  
3 Plaintiff could have performed.

4 Plaintiff requests the Court reverse the ALJ’s final decision and remand the case to the  
5 Social Security Administration for an award of benefits. See Pl’s MSJ. Alternatively, Plaintiff  
6 requests that this case be remanded for further administrative proceedings to re-adjudicate the  
7 issues. Id. Plaintiff supports these requests with the following contentions: (1) the ALJ violated  
8 the failure-to-follow prescribed treatment regulations; (2) the ALJ either failed to follow the two-  
9 stage method for evaluating substance use or his findings are inconsistent; and (3) the ALJ  
10 erroneously rejected treating psychiatrist Dr. Matin’s more restrictive opinions.

11 **A. The ALJ Found Plaintiff Not Disabled Because He Was Capable of Work, Not**  
12 **Because He Had Failed to Follow Prescribed Treatment**

13 Plaintiff argues that the ALJ misapplied 20 C.F.R. § 404.1530 (entitled “Need to follow  
14 prescribed treatment”). Pl’s MSJ at 7. The regulation states that, “[i]n order to get benefits, you  
15 must follow treatment prescribed by your physician *if this treatment can restore your ability to*  
16 *work.*” 20 C.F.R. § 404.1530(a) (emphasis added). Plaintiff states that because the regulation  
17 refers to restoring the applicant’s ability to work, finding the applicant disabled is a necessary  
18 precondition to the application of the regulation. Pl’s MSJ at 8. Plaintiff calls this the “disability  
19 requirement.” Id. Accordingly, Plaintiff claims the ALJ should have found Plaintiff disabled. Id.  
20 However, the Court finds this argument unpersuasive. The ALJ did not use the regulation in  
21 finding Plaintiff not disabled. Tr. at 19–21. Rather, it was Plaintiff’s capability of work which led  
22 the ALJ to find him not disabled. Tr. at 22–23. Therefore, the issue of whether the “disability  
23 requirement” is met is irrelevant, even if it is true that § 404.1530 suggests such a requirement.

24 As to Plaintiff’s argument that the ALJ failed to develop an adequate record regarding  
25 “good reasons,” again, the ALJ’s finding of non-disability did not involve 20 C.F.R. § 404.1530.  
26 Tr. at 19-21. Plaintiff states the ALJ, under SSR 82-59, should have probed Plaintiff’s “good  
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1 reasons” for being noncompliant with the prescribed treatment. PI’s MSJ at 9. But the burden is  
2 on Plaintiff to prove his eligibility for benefits. 42 U.S.C. § 423(d)(5). The ALJ has no duty to  
3 develop the record beyond what Plaintiff presents unless there is “ambiguous evidence or when  
4 the record is inadequate to allow for proper evaluation of the evidence.” Mayes v. Massanari, 276  
5 F.3d 453, 459–60 (9th Cir.2001). Here, there is no indication that the record before the ALJ was  
6 ambiguous or inadequate. Therefore, the ALJ was not required to investigate further into whether  
7 Plaintiff had “good reasons” for not complying with the prescribed treatment.

8 Plaintiff also objects to the ALJ’s reliance on out-of-circuit case, namely Roth v. Shalala,  
9 45 F.3d 279 (8th Cir. 1993). PI’s MSJ at 7. In Roth, the Eighth Circuit held “[i]f an impairment  
10 can be controlled by treatment or medication, it cannot be considered disabling.” Id. at 283. The  
11 Ninth Circuit law is on par with that of the Eighth Circuit. For example, in Warre v.  
12 Commissioner Social Security, 439 F.3d 1001, 1006 (9th Cir. 2006), the Ninth Circuit held  
13 “impairments that can be controlled effectively with medication are not disabling for the purpose  
14 of determining eligibility for SSI benefits.” In addition, in Odle v. Heckler, 707 F.2d 439, 440  
15 (9th Cir.1983), the Ninth Circuit affirmed a denial of benefits while noting that the applicant’s  
16 impairments were responsive to medication. Here, the ALJ found Plaintiff in “good control of his  
17 symptoms, when he was taking his medication.” Tr. at 19. The ALJ further found that Plaintiff  
18 “maintains an ability to sustain some work, so long as he is compliant with his medication.” Tr. at  
19 19. Thus, the ALJ properly determined Plaintiff not disabled based on his continued ability to  
20 work.

21 **B. The ALJ Properly Applied the Two-Stage Method**

22 Plaintiff contends the ALJ failed to follow the two-stage method for evaluating substance  
23 use, because the ALJ engaged in the second step inquiry without addressing the first step. PI’s  
24 MSJ at 10–11. The Court disagrees.

25 The regulation states that, “*if we find that you are disabled and have medical evidence of*  
26 *your drug addiction or alcoholism, we must determine whether your drug addiction or alcoholism*  
27



1 is a contributing factor material to the determination of disability.” 20. C.F.R. § 404.1535(a)  
2 (emphasis added). Here, the ALJ found Plaintiff not disabled. Tr. at 19–21. Accordingly, the  
3 ALJ was under no obligation to analyze whether Plaintiff’s alcohol use would be a “contributing  
4 factor material to the Commissioner’s determination of disability.” 42 U.S.C. § 423(d)(2)(C).

5 Furthermore, the Ninth Circuit has reiterated the position articulated in the regulation. In  
6 Bustamante v. Massanari, 262 F.3d 949, 955 (9th Cir. 2001), the Ninth Circuit held that “[A]n  
7 ALJ must first conduct the five-step inquiry without separating out the impact of alcoholism or  
8 drug addiction. If the ALJ finds that the [applicant] is not disabled under the five-step inquiry,  
9 then the [applicant] is not entitled to benefits and there is no need to proceed with the analysis  
10 under 20 C.F.R. §§ 404.1535 or 416.935.” Here, the ALJ conducted the five-step sequential  
11 inquiry with the impact of Plaintiff’s substance use. Tr. at 14-23. The ALJ found Plaintiff not  
12 disabled because he concluded that Plaintiff is capable of work “even with [drug and alcohol]  
13 use.” Tr. at 19. Therefore, contrary to Plaintiff’s mistaken belief, no further analysis under 20  
14 C.F.R. §§ 404.1535 was required. Bustamante, 262 F.3d at 955.

15 **C. The ALJ Properly Weighed Dr. Matin’s Opinion**

16 Plaintiff next claims the ALJ erroneously rejected Dr. Matin’s more restrictive opinions in  
17 favor of the ALJ’s RFC assessment. Pl’s MSJ at 12. The Court finds this argument unpersuasive.

18 When an ALJ rejects a treating or examining physician’s opinion that is contradicted by  
19 another doctor, he must provide specific, legitimate reasons based on substantial evidence in the  
20 record. See Valentine v. Comm’r of Soc. Sec. Admin., 574 F.3d 685, 692 (9th Cir. 2009); Ryan v.  
21 Comm’r of Soc. Sec. Admin., 528 F.3d 1194, 1198 (9th Cir. 2008); see also 20 C.F.R.

22 §404.1527(d)(2). Moreover, as long as the opinions of a non-treating or non-examining physician  
23 opinions are consistent with independent clinical findings or other evidence in the record, those  
24 opinions may serve as substantial evidence. Thomas, 278 F.3d at 956–957. In this case, Drs.  
25 Bradus and Garcia assessed that Plaintiff is not disabled. Tr. at 608–623. This contradicts Dr.  
26 Matin’s opinion that Plaintiff suffers from severe mental limitations. Accordingly, the ALJ was  
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1 required to provide specific and legitimate reasons for discounting Dr. Matin’s opinion.

2 In his decision, the ALJ properly explained the reasons for giving “little weight” to Dr.  
3 Matin’s opinion. First, the ALJ noted Plaintiff did not appear to be entirely honest with Dr. Matin  
4 regarding his substance use. Tr. at 19. Dr. Matin stated Plaintiff had not used drugs in the past 5  
5 years, and that Plaintiff only used alcohol approximately 4 times since 2012. Tr. at 628. Yet, the  
6 ALJ noted Plaintiff not only acknowledged ongoing and current alcohol use, but also cocaine use  
7 as recently as 2012. Tr. at 21. Specifically, at the hearing, Plaintiff admitted to drinking just ten  
8 days prior, and stated his eviction from the recovery house in February 2014 was due to his  
9 consumption of alcohol. Tr. at 43–44.

10 Second, the ALJ found Dr. Matin’s diagnoses inconsistent. Tr. at 21. For example, in two  
11 near contemporaneous written statements,<sup>3</sup> Dr. Matin’s opinions regarding Plaintiff’s substance  
12 use are vastly different. While noting in the mental capacity statement that Plaintiff’s substance  
13 use was sporadic and isolated, Dr. Matin then wrote in his treatment notes, Plaintiff had a  
14 significant alcohol relapse and tended to minimize his alcohol use. Compare Tr. at 606, with Tr.  
15 at 628. In addition, Dr. Matin described Plaintiff’s mental status evaluations as generally within  
16 normal limits, which contradicts the extreme limitations set forth in the mental capacity statement.  
17 Compare Tr. at 508-519, with 624-628.

18 Third, the ALJ dismissed Dr. Matin’s disability finding under August 2012 General  
19 Assistance (GA), because GA uses different and less stringent criteria when determining disability  
20 than the Social Security Act requires.<sup>4</sup> Tr. at 20.

21 Lastly, regarding Dr. Matin’s report that Plaintiff had significant limitations with sitting  
22 and lifting, the ALJ rejected his opinion as it was outside his field of expertise. Id.

23 In sum, the ALJ found Dr. Matin’s conclusions inconsistent with the record as a whole.

24 \_\_\_\_\_  
25 <sup>3</sup> The inconsistent statements are made on January 31, 2013 (Dr. Matin’s treatment notes) and  
26 April 2013 (Dr. Matin’s mental capacity statement to the agency).

27 <sup>4</sup> The GA form asks whether a patient has a physical disorder, mental disorder, or substance abuse  
28 problem which limits his or her employability. Tr. at 480.

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The substantial evidence, including the contradicting opinion from the state agency and the record, support the ALJ's evaluation of Dr. Matin's opinion.

**IV. CONCLUSION**

For the foregoing reasons, the Court DENIES Plaintiff's Motion for Summary Judgment, and GRANTS Commissioner's Cross-Motion for Summary Judgment

Judgment will be entered in favor of the Commissioner, and the Clerk shall close this file.

**IT IS SO ORDERED.**

Dated: March 8, 2016

  
EDWARD J. DAVILA  
United States District Judge