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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

TERESA G.,

Plaintiff,

v.

KILOLO KIJAKAZI, Acting
Commissioner of Social Security,

Defendant.

Case No.: 20cv1557-RBB

**ORDER DENYING PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT [ECF NO. 15]**

On August 11, 2020, Plaintiff Teresa G.¹ commenced this action against Defendant Andrew Saul, Commissioner of Social Security, for judicial review under 42 U.S.C. § 405(g) of a final adverse decision for disability insurance benefits [ECF No. 1].² On August 24, 2020, Plaintiff consented to have a United States Magistrate Judge conduct all

¹ The Court refers to Plaintiff using only her first name and last initial pursuant to the Court's Civil Local Rules. See S.D. Cal. Civ. R. 7.1(e)(6)(b).

² Kilolo Kijakazi is now the Acting Commissioner of Social Security and is automatically substituted as a party pursuant to Fed. R. Civ. P. 25(d).

1 proceedings in this case [ECF No. 7].³ Defendant filed the Administrative Record on
2 February 18, 2021 [ECF No. 11]. On April 19, 2021, Plaintiff filed a Motion for
3 Summary Judgment [ECF No. 15]. The case was transferred to this Court on June 9,
4 2021 [ECF No. 18]. Defendant filed an Opposition to Plaintiff's Motion for Summary
5 Judgment on June 11, 2021 [ECF No. 19]. Plaintiff's Reply in Support of Motion for
6 Summary Judgment was filed on June 24, 2021 [ECF No. 20].

7 For the following reasons, Plaintiff's Motion for Summary Judgment is **DENIED**.

8 I. BACKGROUND

9 Plaintiff Teresa G. was born in 1959 and completed eighth grade. (Admin. R. 151,
10 156, ECF No. 11.)⁴ She previously worked as a caregiver, housekeeper, janitor, and
11 manufacturing/small parts assembler. (Id. at 156.) On September 12, 2017, Teresa G.
12 filed an application for disability insurance benefits under Title II of the Social Security
13 Act. (Id. at 114-17.) She alleged that she had been disabled since August 18, 2017, due
14 to diabetes, thyroidism, asthma, high blood pressure, panic attacks, depression, anxiety,
15 chronic body pain, and back pain. (Id. at 155.) Plaintiff's application was denied on
16 initial review and again on reconsideration. (Id. at 95-98, 100-04.) An administrative
17 hearing was conducted on April 4, 2019, by Administrative Law Judge ("ALJ") Louis M.
18 Catanese, at which Plaintiff testified with the assistance of a Spanish interpreter. (Id. at
19 38, 40.) On May 9, 2019, the ALJ issued a decision and concluded that Teresa G. was
20 not disabled. (Id. at 21-34.) Plaintiff requested a review of the ALJ's decision; the
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24 ³ The United States has informed the Court of its general consent to Magistrate Judge jurisdiction in
25 cases of this nature.

26 ⁴ The administrative record is filed on the Court's docket as multiple attachments. The Court will cite to
27 the administrative record using the page references contained on the original document rather than the
28 page numbers designated by the Court's case management/electronic case filing system ("CM/ECF").
For all other documents, the Court cites to the page numbers affixed by CM/ECF.

1 Appeals Council denied the request on June 22, 2020. (Id. at 1-5.) Plaintiff then
2 commenced this action pursuant to 42 U.S.C. § 405(g).

3 **A. ALJ's Decision**

4 In his decision finding that Teresa G. was not disabled, (id. at 21-34), Judge
5 Catanese determined that Plaintiff had not engaged in substantial gainful activity since
6 August 18, 2017, her alleged onset date. (Id. at 23.) He found that Plaintiff had severe
7 impairments including hypertension; diabetes mellitus; obesity; and a mental impairment
8 variously diagnosed to include a depressive disorder, borderline personality disorder, and
9 post-traumatic stress disorder (PTSD). (Id.) He considered the following conditions as
10 nonsevere impairments: asthma, constipation, vertigo, hyperglycemia, glaucoma, foot
11 callus, headache, sinusitis, nose bleeds, back pain, and thyroid condition. (Id. at 24.) The
12 ALJ determined that Plaintiff did not have an impairment or combination of impairments
13 that met or medically equaled a listed impairment. (Id.) He stated that Teresa G. had the
14 residual functional capacity to perform no greater than light work with additional
15 specified limitations.

16 [Plaintiff] could also sustain attention and concentration for at least two-
17 hour increments at a time for only unskilled work duties, as would be
18 consistent with an SVP level of 1 to 2 but no greater than 2; could also have
19 no greater than occasional interaction with any coworkers, or supervisors,
20 and/or members of the public; and lastly, would not be expected to respond
adequately to frequent changes in workplace environment.

21 (Id. at 27.) ALJ Catanese concluded that Plaintiff was capable of performing her past
22 relevant work as a cleaner/housekeeper and small parts assembler, and had not been
23 under a disability from August 18, 2017, through the date of his decision. (Id. at 33-34.)

24 **II. LEGAL STANDARDS**

25 Sections 405(g) and 421(d) of the Social Security Act allow unsuccessful
26 applicants to seek judicial review of a final agency decision of the Commissioner. 42
27 U.S.C.A. §§ 405(g), 421(d) (West 2011). The scope of judicial review is limited,

1 however, and the denial of benefits "will be disturbed only if it is not supported by
2 substantial evidence or is based on legal error." Brawner v. Sec'y of Health & Human
3 Servs., 839 F.2d 432, 433 (9th Cir. 1988) (quoting Green v. Heckler, 803 F.2d 528, 529
4 (9th Cir. 1986)); see also Garrison v. Colvin, 759 F.3d 995, 1009 (9th Cir. 2014).
5 Substantial evidence means "more than a mere scintilla but less than a preponderance; it
6 is such relevant evidence as a reasonable mind might accept as adequate to support a
7 conclusion." Sandgathe v. Chater, 108 F.3d 978, 980 (9th Cir. 1997) (quoting Andrews
8 v. Shalala, 53 F.3d 1035, 1039 (9th Cir. 1995)); see also Biestek v. Berryhill, ___ U.S.
9 ____, ____, 139 S. Ct. 1148, 1154, 203 L. Ed. 2d 504 (2019). The court must consider
10 the entire record, including the evidence that supports and detracts from the
11 Commissioner's conclusions. Desrosiers v. Sec'y of Health & Human Servs., 846 F.2d
12 573, 576 (9th Cir. 1988). If the evidence supports more than one rational interpretation,
13 the court must uphold the ALJ's decision. Burch v. Barnhart, 400 F.3d 676, 679 (9th Cir.
14 2005); Ford v. Saul, 950 F.3d 1141, 1154 (9th Cir. 2020). The district court may affirm,
15 modify, or reverse the Commissioner's decision. 42 U.S.C.A. § 405(g). The matter may
16 also be remanded to the Social Security Administration for further proceedings. Id.

17 To qualify for disability benefits under the Social Security Act, a claimant must
18 show two things: (1) The applicant suffers from a medically determinable impairment
19 that can be expected to result in death or that has lasted or can be expected to last for a
20 continuous period of twelve months or more, and (2) the impairment renders the
21 applicant incapable of performing the work that he or she previously performed or any
22 other substantially gainful employment that exists in the national economy. See 42
23 U.S.C.A. §§ 423(d)(1)(A), (2)(A) (West 2011). An applicant must meet both
24 requirements to be classified as "disabled." Id. The applicant bears the burden of
25 proving he or she was either permanently disabled or subject to a condition which
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1 became so severe as to disable the applicant prior to the date upon which his or her
2 disability insured status expired. Johnson v. Shalala, 60 F.3d 1428, 1432 (9th Cir. 1995).

3 The Commissioner makes this assessment by employing a five-step analysis
4 outlined in 20 C.F.R. § 404.1520. See also Tackett v. Apfel, 180 F.3d 1094, 1098-99
5 (9th Cir. 1999) (describing five steps). First, the Commissioner determines whether a
6 claimant is engaged in "substantial gainful activity." If so, the claimant is not disabled.
7 20 C.F.R. § 404.1520(b) (2019). Second, the Commissioner determines whether the
8 claimant has a "severe impairment or combination of impairments" that significantly
9 limits the claimant's physical or mental ability to do basic work activities. If not, the
10 claimant is not disabled. Id. § 404.1520(c). Third, the medical evidence of the claimant's
11 impairment is compared to a list of impairments that are presumed severe enough to
12 preclude work; if the claimant's impairment meets or equals one of the listed
13 impairments, benefits are awarded. Id. § 404.1520(d). If not, the claimant's residual
14 functional capacity is assessed and the evaluation proceeds to step four. Id.
15 § 404.1520(e). Fourth, the Commissioner determines whether the claimant can do his or
16 her past relevant work. If the claimant can do their past work, benefits are denied. Id.
17 § 404.1520(f). If the claimant cannot perform his or her past relevant work, the burden
18 shifts to the Commissioner. In step five, the Commissioner must establish that the
19 claimant can perform other work. Id. § 404.1520(g). If the Commissioner meets this
20 burden and proves that the claimant is able to perform other work that exists in the
21 national economy, benefits are denied. Id.

22 When an applicant for disability benefits claims mental impairment, the ALJ must
23 employ the special technique described in 20 C.F.R. § 404.1520a to rate the degree of
24 functional limitation resulting from the impairment. See 20 C.F.R. § 404.1520a(a), (b)(2)
25 (2017). A five-point scale (none, mild, moderate, marked, and extreme) is used to rate
26 degree of functional limitation in four broad functional areas: (1) understand, remember,
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1 or apply information; (2) interact with others; (3) concentrate, persist, or maintain pace;
 2 and (4) adapt or manage oneself. Id., § 404.1520a(c)(3)-(4). After the degree of
 3 functional limitation resulting from the impairment is established, the Commissioner will
 4 determine, in connection with the five-step analysis described above, the severity of the
 5 mental impairment, whether it meets or is equivalent in severity to a listed mental
 6 disorder, and residual functional capacity. Id. § 404.1520a(d)(1)-(3).

7 III. DISCUSSION

8 Plaintiff asserts that the ALJ impermissibly rejected the opinions of examining
 9 physician Jaga Nath Glassman, M.D. (Pl.’s Mot. Attach. #1 Mem. P. & A. 3-9, ECF No.
 10 15.) Specifically, Teresa G. contends that Dr. Glassman’s examination supported his
 11 findings of marked impairments for maintaining concentration, persistence, and pace and
 12 for adapting to changes and stresses in a workplace setting, and that the medical record
 13 supports the doctor’s opinion. (Id. at 7-8.) Plaintiff also states that Dr. Glassman’s
 14 opinion is consistent with the opinions of her treating psychologist, Grace Ning, Psy.D.,
 15 and state agency psychological consultant, D. Malone, Ph.D. (Id. at 8.)

16 A. 2017 Revised Regulations

17 Plaintiff filed for disability after March 27, 2017. Therefore, the Social Security
 18 Administration’s 2017 revised regulations governing the consideration of medical
 19 opinions apply. See 20 C.F.R. § 404.1520 (2017). Under the updated regulations, an
 20 ALJ need “not defer or give any specific evidentiary weight, including controlling
 21 weight, to any medical opinion(s) or prior administrative finding(s)⁵], including those
 22 from [a claimant’s] medical sources.” Id. § 404.1520c(a). Instead, an ALJ is to evaluate
 23 medical opinions and prior administrative medical findings by assessing their
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 26 ⁵ A “prior administrative medical finding” consists of a finding about a medical issue by a “Federal or
 27 State agency medical or psychological consultant[] at a prior level of review.” 20 C.F.R. §
 28 404.1513(a)(4).

1 “persuasiveness.” Id. In determining how “persuasive” a medical source’s opinions are,
 2 an ALJ must consider the following factors: supportability, consistency, treatment or
 3 examining relationship, specialization, and “other factors.” Id. § 404.1520c(c)(1)-(5).
 4 The supportability and consistency factors are “the most important factors.” Id. §
 5 404.1520c(b)(2). “Supportability” is the extent to which a medical opinion is supported
 6 by relevant objective medical evidence and the medical source’s supporting explanations.
 7 Id. § 404.1520c(c)(1). “Consistency” is the extent to which a medical opinion is
 8 consistent with evidence from other medical and nonmedical sources. Id. §
 9 404.1520c(c)(2).⁶

10 The Ninth Circuit has not yet interpreted the revised regulations because appeals of
 11 ALJ decisions applying these regulations have just recently been considered by district
 12 courts. It is clear, however, that the Commissioner’s new regulations require the ALJ to
 13 explain his or her reasoning and to specifically address how he or she considered the
 14 supportability and consistency of the medical opinion. Id. § 404.1520c(b)(2); see also
 15 P.H. v. Saul, 2021 WL 965330, at *3 (N.D. Cal. Mar. 15, 2021) (“Although the
 16 regulations eliminate the ‘physician hierarchy,’ deference to specific medical opinions,
 17 and assigning ‘weight’ to a medical opinion, the ALJ must still ‘articulate how [he/she]
 18 considered the medical opinions’ and ‘how persuasive [he/she] find[s] all of the medical
 19 opinions.’”) (citation omitted). “As always, the ALJ’s reasoning must be free of legal
 20 error and supported by substantial evidence.” See Carolyn M.D. v. Kijakazi, Case No.
 21 2:20-cv-06725-AFM, 2021 WL 6135322, at *5 (C.D. Cal. Dec. 28, 2021) (citing Ford,

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 24 ⁶ Under the prior regulations, an ALJ generally accorded controlling weight to a treating physician when
 25 the doctor utilized medically approved diagnostic techniques to support the offered opinion, and where
 26 the opinion was not inconsistent with other substantial evidence. See 20 C.F.R. § 404.1527(c)(2);
 27 Revels v. Berryhill, 874 F.3d 648, 654 (9th Cir. 2017). Under the new regulations, a treating source is
 28 not entitled to the same presumption, particularly when another medical opinion is more consistent with
 or better supported by evidence in the record. 20 C.F.R. § 404.1520c(a).

1 950 F.3d at 1154). In sum, when considering medical opinions and prior administrative
2 medical findings under the new regulations, the ALJ must explain his or her reasoning,
3 specifically address the supportability and consistency of the opinions, and the ALJ's
4 reasoning must be free from legal error and supported by substantial evidence. See
5 Martinez V. v. Saul, NO. CV 20-5675-KS, 2021 WL 1947238, at *3 (C.D. Cal. May 14,
6 2021).

7 **B. ALJ's Evaluation of Dr. Glassman's Opinion**

8 **1. Dr. Glassman's report**

9 Teresa G. saw Dr. Glassman, a psychiatrist, for a psychiatric disability evaluation
10 on December 27, 2017. (Admin. R. 300, ECF No. 11.) His diagnostic impression
11 consisted of major depression, severe; dysthymic disorder; victim, childhood
12 neglect/alcoholic home; and apparent borderline personality features. (Id. at 303.) He
13 also provided an opinion regarding Plaintiff's psychiatric limitations. See 20 C.F.R. §
14 404.1513(a)(2) (2017) (defining "medical opinion" as a statement from a medical source
15 as to a patient's functional abilities and limitations). Specifically, he stated:

16 [Teresa G.] has a moderate impairment in her capacity to behave in a
17 socially-appropriate manner and to get along adequately with others, given
18 her markedly depressed and dysphoric presentation. She has mild
19 impairment in her capacity to understand and follow simple instructions.
20 She has marked impairment in her capacity to maintain concentration,
persistence, and pace, and to adapt to changes and stresses in a workplace
setting.

21 (Admin. R. 304, ECF No. 11.)

22 **2. ALJ's finding that Dr. Glassman's opinion was not persuasive**

23 The ALJ stated the following regarding Dr. Glassman's opinion:

24 I find no significant persuasiveness in the overall opinions of consultative
25 examiner Dr. Glassman, who found the claimant had marked impairment for
26 maintaining concentration, persistence, pace and for adapting to changes and
27 stresses in a workplace setting; mild impairment for understanding and

1 following simple instructions; and moderate impairment for behaving in a
2 socially appropriate manner and getting along with others. [Exhibit
3 reference omitted.] While the moderate impairment in getting along with
4 others has some consistency with the overall evidence and I have made
5 similar findings in this decision, the examiner's findings demonstrate a
6 greater functional level, including reports of coherent, relevant, and goal-
7 directed thought processes; no evidence of any psychotic symptoms; ability
8 to follow all instructions; socially appropriate behavior; and alert with
9 average intellectual functioning. [Exhibit reference omitted.] In particular,
10 these findings do not support marked impairment for maintaining
11 concentration, persistence, pace and for adapting to changes and stresses in a
12 workplace setting; and moderate impairment for behaving in a socially
13 appropriate manner. I note that the consultative examiner wrote that the
14 claimant was socially appropriate without any odd or bizarre behavior. In
15 addition, the examiner's conclusions are not consistent with the frequently
16 unremarkable findings in the overall evidence, as described in the above
17 paragraph regarding Dr. Ning's opinions.

18 (Id. at 32.)

19 **C. "Specific and Legitimate Reasons" Standard No Longer Applicable**

20 As an initial matter, Plaintiff contends that the ALJ was required to articulate
21 "specific and legitimate reasons" supported by substantial evidence to reject Dr.
22 Glassman's opinion regarding Teresa G.'s psychiatric limitations. (Pl.'s Mot. Attach. #1
23 Mem. P. & A. 6-7, ECF No. 15.) The "treating source rule" applied in connection with
24 the prior version of the regulations allowed an ALJ to reject a treating or examining
25 physician's uncontradicted medical opinion only for "clear and convincing reasons," and
26 allowed a contradicted opinion to be rejected only for "specific and legitimate reasons"
27 supported by substantial evidence in the record. See, e.g., Trevizo v. Berryhill, 871 F.3d
28 664, 675 (9th Cir. 2017). This measure of deference to a treating or examining physician
is no longer applicable under the 2017 revised regulations. See Revisions to Rules
Regarding the Evaluation of Medical Evidence, 82 Fed. Reg. 5844-01, 5853) (Jan. 18,
2017) (available at 2017 WL 168819) ("[W]e are not retaining the treating source rule . . .

1 for claims filed on or after March 27, 2017.”); see also Jones v. Saul, No. 2:19-cv-01273
2 AC, 2021 WL 620475, at *6 (E.D. Cal. Feb. 17, 2021) (finding the revised regulations
3 valid, entitled to deference, and supersede prior Ninth Circuit case authority interpreting
4 the treating physician rule); Allen T. v. Saul, No. EDCV 19-1066-KS, 2020 WL
5 3510871, at *3 (C.D. Cal. June 29, 2020) (“[T]he Court is mindful that it must defer to
6 the new regulations, even where they conflict with prior judicial precedent, unless the
7 prior judicial construction ‘follows from the unambiguous terms of the statute and thus
8 leaves no room for agency discretion.’”) (citing Nat’l Cable & Telecomms. Ass’n v.
9 Brand X Internet Servs., 545 U.S. 967, 981-82 (2005)). Therefore, any argument set
10 forth by Plaintiff that relies on the alleged failure by the ALJ to articulate specific and
11 legitimate reasons supported by substantial evidence to reject Dr. Glassman’s opinion is
12 without merit.

13 **D. Analysis**

14 Plaintiff contends that Dr. Glassman’s opinion of her marked impairments was
15 supported by his examination findings. (Pl.’s Mot. Attach. #1 Mem. P. & A. 7, ECF No.
16 15.) Dr. Glassman observed that during the mental status examination, Teresa G.
17 presented with limited eye contact, frequent sobbing, whimpery monotone speech, and
18 appeared very depressed, distraught, overwhelmed, and unable to self-soothe. (Id., citing
19 Admin. R. 302, ECF No. 11.) Plaintiff relates that she misidentified the day of the week,
20 incorrectly stated that the sun rises in the west, and misstated the capital of California.
21 (Id.) She also argues that relevant objective medical evidence in the record supports Dr.
22 Glassman’s opinion and cites to treatment notes and mental status examinations
23 reflecting, among other things, depressed mood, tearful and anxious affect, decreased
24 energy, poor coping skills, anxiety, nightmares, and flashbacks. (Id. at 8.) Finally, she
25 points out that Dr. Glassman’s opinion is consistent with the opinions of Dr. Ning, her
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1 treating psychologist, and Dr. Malone, the state agency psychological consultant who
2 evaluated her claim at the initial level of review. (Id.)

3 In his evaluation of Dr. Glassman’s opinion, the ALJ identified the two primary
4 factors of supportability and consistency set forth in the new regulations and cited
5 evidence to substantiate his conclusion that the opinion was not supported by, or
6 consistent with, the doctor’s examination findings or other evidence of Plaintiff’s mental
7 condition in the record. (See Admin. R. 32, ECF No. 11; see also 20 C.F.R. §
8 404.1520c(b)(2).) Under the revised regulations, “[t]he more relevant the objective
9 medical evidence and supporting explanations presented by a medical source are to
10 support his or her medical opinion(s) . . . , the more persuasive the medical opinions . . .
11 will be.” See 20 C.F.R. § 404.1520c(c)(1) (describing supportability factor). Here, Dr.
12 Glassman’s opinion was based solely on his examination and a self-report questionnaire
13 completed by Plaintiff, and not any other records in Plaintiff’s medical file, (see Admin.
14 R. 303, ECF No. 11), and thus his own examination findings were the only objective
15 medical evidence relied on by the doctor. See id. § 404.1520c(b)(2), (c)(5) (providing
16 that ALJ is to consider a medical source’s familiarity with other evidence in the claim but
17 need not explain consideration of this factor). The ALJ interpreted Dr. Glassman’s
18 examination findings as “demonstrating a greater functional level” than the doctor
19 indicated because Teresa G.’s thought processes were coherent, relevant, and goal-
20 directed; she had no evidence of any psychotic symptoms; she was able to follow all
21 instructions; she showed socially appropriate behavior; and she was alert with average
22 intellectual functioning. (Admin. R. 32, ECF No. 11, citing id. at 303.) In other words,
23 while Plaintiff exhibited some indication of psychiatric impairment during her
24 examination with Dr. Glassman, other components of her mental exam were normal or
25 supported a lesser degree of impairment than indicated by the doctor. The existence of an
26 impairment, diagnosis, or symptom does not mean that Plaintiff suffered from a disabling
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1 limitation in her functional abilities, and the ALJ could properly rely on normal exam
2 findings in his evaluation of Dr. Glassman’s opinion. See Bayliss v. Barnhart, 427 F.3d
3 1211, 1216 (9th Cir. 2005) (finding discrepancy between doctor’s recorded observations
4 and opinions regarding patient’s capabilities a valid reason to not rely on the doctor’s
5 opinion); see also Trevizo, 871 F.3d at 674-75 (“Where evidence is susceptible to more
6 than one rational interpretation, the ALJ’s decision should be upheld.”); Jamerson v.
7 Chater, 112 F.3d 1064, 1066 (9th Cir. 1997) (citation omitted) (noting that if the evidence
8 could reasonably support either affirming or reversing the ALJ’s decision, the court “may
9 not substitute its judgment for that of the Commissioner” and must affirm the decision).

10 Plaintiff recognizes that portions of Dr. Glassman’s mental status examination
11 were unremarkable but argues that the majority of the examination was abnormal. (Pl.’s
12 Reply 4, ECF No. 20.) She relies on Buck v. Berryhill, 869 F.3d 1040 (9th Cir. 2017), to
13 argue that Dr. Glassman’s mental status examination constituted objective medical
14 evidence and that the ALJ was not permitted to reject it “because of the relative
15 imprecision of the psychiatric methodology.” (Pl.’s Reply 4-5, ECF No. 20, citing
16 Blankenship v. Bowen, 874 F.2d 1116, 1121 (6th Cir. 1989).) In Buck, the Ninth Circuit
17 held that the ALJ could not reject an examining psychologist’s opinion on the basis that
18 the opinion relied in part on the plaintiff’s self-report. Buck, 869 F.3d at 1049. The court
19 observed that psychiatric diagnoses “will always depend in part on the patient’s self-
20 report, as well as on the clinician’s observations of the patient” and that “[s]uch is the
21 nature of psychiatry.” Id. Unlike the ALJ in Buck, however, ALJ Catanese did not find
22 that Dr. Glassman’s opinion held less persuasive value because it relied on Teresa G.’s
23 self-reports. Rather, the ALJ determined that the psychiatrist’s examination findings did
24 not provide sufficient support for his opinion. The medical record supports that
25 determination. Therefore, Buck is distinguishable.

1 As to the second primary factor required to be addressed by the ALJ, the
2 consistency of a medical opinion is the extent to which the opinion is consistent with
3 evidence from other medical and nonmedical sources. See 20 C.F.R. § 404.1520c(c)(2)
4 (describing consistency factor). ALJ Catanese reasonably found that Dr. Glassman’s
5 opinions were not consistent with “the frequently unremarkable findings in the overall
6 evidence,” (see Admin. R. 32, ECF No. 11), particularly those noted by Dr. Ning,
7 Plaintiff’s treating psychologist who saw Teresa G. on eight occasions between December
8 7, 2017, and November 14, 2018. For example, the ALJ correctly observed that Dr. Ning
9 repeatedly indicated that Plaintiff had no reported or observed memory problems. (Id. at
10 31, citing id. at 307, 310, 321, 332, 348, 365, 383, 390.) He similarly pointed out that Dr.
11 Ning’s records consistently reported generally unremarkable findings, such as appropriate
12 appearance, proper behavior, normal speech, coherent thought processes, and appropriate
13 thought content. (Id. at 31-32, citing id. at 306-07, 309-10, 321, 332, 348, 365, 383, 389-
14 90.)

15 The evidence cited by the ALJ supports his interpretation of Dr. Glassman’s
16 opinion. These findings undermined any determination that Plaintiff had significant
17 mental limitations and countered Dr. Glassman’s observations that Plaintiff was “mildly
18 unkempt” and spoke with a “soft, whispery monotone.” (See id. at 302.) Moreover, Dr.
19 Ning’s records also reflected that Plaintiff did not have any problems with concentrating
20 on activities such as reading the newspaper or watching television, (see id. at 306, 382,
21 389), which contrasts with Dr. Glassman’s finding of marked impairment in Plaintiff’s
22 capacity to maintain concentration, persistence, and pace. And although Teresa G.
23 contends that Dr. Glassman’s opinion was consistent with Dr. Ning’s and Dr. Malone’s
24 opinions regarding her mental impairments, she does not challenge the ALJ’s finding that
25 those opinions had limited persuasive value. (See Pl.’s Mot. Attach. #1 Mem. P. &A. 8,
26 ECF No. 15; Pl.’s Reply 6, ECF No. 20.)
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1 “An ALJ is not required to take medical opinions at face value, but may take into
2 account the quality of the explanation” when evaluating the persuasiveness of a medical
3 opinion. Ford, 950 F.3d at 1155 (citing Orn v. Astrue, 871 F.3d 625, 631 (9th Cir.
4 2007)). Viewing the record as a whole, the Court finds that the ALJ articulated legally
5 sufficient reasons supported by substantial evidence in the record to substantiate his
6 consideration of the opinions of Drs. Ning and Malone.

7 Substantial evidence is not a high bar. See Sandgathe 108 F.3d at 980 (defining
8 substantial evidence as “more than a mere scintilla but less than a preponderance”). After
9 considering the record as a whole, and evaluating “both the evidence that supports and
10 the evidence that detracts from the Commissioner's conclusion,” (see Garrison, 759 F.3d
11 at 1009), the Court finds that substantial evidence supports the ALJ’s evaluation of Dr.
12 Glassman’s opinion. ALJ Catanese reasonably explained his finding that Dr. Glassman’s
13 opinion was not persuasive, and he specifically addressed the supportability and
14 consistency of the opinion as required under the regulations. Plaintiff has not
15 demonstrated that the ALJ's decision contained legal error, or that it was not supported by
16 substantial evidence. Accordingly, her motion for summary judgment is **DENIED**.


17 **IV. CONCLUSION**

18 For the reasons stated above, Plaintiff's Motion for Summary Judgment is
19 **DENIED**.

20 This Order concludes the litigation in this matter. The Clerk shall close the file.

21 **IT IS SO ORDERED.**

22 Dated: February 1, 2022

23 
24 Hon. Ruben B. Brooks
25 United States Magistrate Judge
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