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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FRAN A. FAULKNER,)	3:16-cv-00215-HDM-VPC
)	
Plaintiff,)	ORDER
)	
vs.)	
)	
CAROLYN W. COLVIN, Acting)	
Commissioner of Social Security,)	
)	
Defendant.)	
_____)	

16 Plaintiff has filed a motion for reversal and/or remand of the
17 defendant's denial of her claim for social security disability
18 benefits (ECF No. 12). The defendant has filed a cross-motion to
19 affirm (ECF No. 16). On January 4, 2017, the magistrate judge
20 issued her report and recommendation recommending that the court
21 grant in part the plaintiff's motion, deny the defendant's cross-
22 motion, and remand for further proceedings (ECF No. 18). The
23 defendant has objected to the report and recommendation (ECF No.
24 19). Plaintiff has not filed any response to the objections, and
25 the time for doing so has expired.

26 The court has considered the pleadings and memoranda of the
27 parties and other relevant matters of record and has made a review
28 and determination in accordance with the requirements of 28 U.S.C.

1 § 636 and applicable case law, and good cause appearing, the court
2 hereby ADOPTS AND ACCEPTS in part and DECLINES TO ADOPT in part the
3 report and recommendation of the United States Magistrate Judge
4 (ECF No. 18).

5 The court adopts and accepts the report and recommendation
6 insofar as it upholds the Administrative Law Judge's findings to
7 which the plaintiff objected. However, the court declines to adopt
8 the conclusion that remand is necessary because the ALJ's residual
9 functional capacity assessment and hypothetical to the vocational
10 expert did not include a limitation of one- or two-step tasks and
11 instructions. (See ECF No. 18 at 8-10).

12 Each job listing in the Dictionary of Occupational Titles is
13 categorized to one of six Reasoning Levels. See *Rounds v. Comm'r*
14 *Soc. Sec. Admin.*, 807 F.3d 996, 1002 (9th Cir. 2015). A Reasoning
15 Level One requires the ability to carry out "simple one- or
16 two-step instructions"; thus, a limitation to one- or two-step
17 tasks equates with a Reasoning Level One. See *id.* Reasoning Level
18 Two requires the ability to carry out "detailed but uninvolved
19 written or oral instructions." See *id.* The ALJ's RFC assessment
20 and hypothetical provided that plaintiff could perform some
21 detailed, but uncomplicated, tasks, and did not include a one- to
22 two-step limitation. (See AR 23, 60). The RFC assessment and
23 hypothetical thus appear to find that plaintiff can perform at a
24 Reasoning Level Two. However, the ALJ also gave great weight to
25 Dr. Edwards' opinion that plaintiff could perform one- and two-step
26 tasks and instructions (AR 25) - a seeming restriction to Reasoning
27 Level One. The ALJ's decision to give great weight to Dr. Edwards'
28 opinion is therefore inconsistent with the RFC assessment and

1 hypothetical to the vocational expert. The result of the RFC
2 assessment and hypothetical was that the ALJ found plaintiff
3 capable of performing past relevant work and other jobs in the
4 national economy that require a Reasoning Level Two. This included
5 the job of prep cook that, at the time of the ALJ hearing,
6 plaintiff had been performing for more than two years.

7 The court may not reverse an ALJ's decision based on harmless
8 error. *Zavalin v. Colvin*, 778 F.3d 842, 848 (9th Cir. 2015)
9 (citing *Molina v. Astrue*, 674 F.3d 1104, 1111 (9th Cir. 2012)).
10 Given that plaintiff was currently performing a job that required
11 Reasoning Level Two, any error in failing to include a restriction
12 to Reasoning Level One was harmless. Plaintiff's work proved she
13 was capable of performing at a Reasoning Level Two. At a minimum,
14 it proved she could perform her "past relevant work" as a prep cook
15 and therefore was not entitled to disability. Therefore, the court
16 concludes that remand is not required under these circumstances,
17 and the defendant's cross-motion to affirm should be granted and
18 the plaintiff's motion for reversal and/or remand should be denied.

19 In accordance with the foregoing, plaintiff's motion for
20 remand (ECF No. 12) is DENIED, and defendant's cross-motion to
21 affirm (ECF No. 16) is GRANTED. The clerk of the court shall enter
22 judgment accordingly.

23 IT IS SO ORDERED.

24 DATED: This 10th day of February, 2017.

25 
26 _____
27 UNITED STATES DISTRICT JUDGE
28