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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

WALTER GEORGE LAUZON,

Plaintiff,

v.

NANCY A. BERRYHILL
(PREVIOUSLY CAROLYN W.
COLVIN),
Acting Commissioner of Social
Security,¹

Defendant.

No. 2:16-CV-00292-RHW

**ORDER GRANTING
DEFENDANT’S MOTION FOR
SUMMARY JUDGMENT**

Before the Court are the parties’ cross-motions for summary judgment, ECF Nos. 13 & 14. Mr. Lauzon brings this action seeking judicial review, pursuant to 42 U.S.C. § 405(g), of the Commissioner’s final decision, which denied his application for Disability Insurance Benefits under Title II and his application for Supplemental Security Income under Title XVI of the Social Security Act, 42

¹ Nancy A. Berryhill became the Acting Commissioner of Social Security on January 20, 2017. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Nancy A. Berryhill is substituted for Carolyn W. Colvin as the defendant in this suit. No further action need be taken to continue this suit. 42 U.S.C. § 405(g).

1 U.S.C §§ 401-434, 1381-1383F. After reviewing the administrative record and
2 briefs filed by the parties, the Court is now fully informed. For the reasons set forth
3 below, the Court **GRANTS** Defendant’s Motion for Summary Judgment and
4 **DENIES** Mr. Lauzon’s Motion for Summary Judgment.

5 **I. Jurisdiction**

6 Mr. Lauzon filed his applications for Disability Insurance Benefits and
7 Supplemental Security Income on January 3, 2013. AR 12, 218-233. His alleged
8 onset date in his applications is September 17, 2009 (AR 218, 225); the amended
9 alleged onset date is March 28, 2012 (AR 39).² Mr. Lauzon’s applications were
10 initially denied on February 27, 2013, AR 139-46, and on reconsideration on June
11 12, 2013, AR 150-53.

12 A hearing with Administrative Law Judge (“ALJ”) Jesse Shumway occurred
13 on February 24, 2015. AR 35-90. On March 23, 2015, the ALJ issued a decision
14 finding Mr. Lauzon ineligible for disability benefits. AR 9-23. The Appeals
15 Council denied Mr. Lauzon’s request for review on June 23, 2016, AR 1-4, making
16 the ALJ’s ruling the “final decision” of the Commissioner.

17 _____
18 ² There is some discrepancy surrounding Mr. Lauzon’s alleged onset date. The ALJ states the alleged onset date is
19 August 21, 2009. AR 12, 14, 22. Claimant also initially states, in his Motion for Summary Judgment, that the
20 alleged onset date is August 21, 2009. ECF No. 13 at 1. However, the actual applications contain the date of
September 17, 2009, as the alleged onset date. AR 218, 225. Claimant later states, in his reply brief, the initial
alleged onset date is September 17, 2009. ECF No. 15 at 4. Claimant also states, in his Motion for Summary
Judgment, that his alleged onset date is March 28, 2012 (ECF No. 13 at 12-13), and states in his reply brief that the
alleged onset date is the last day he worked in March 2012 (ECF No. 15 at 4). During the hearing with the ALJ,
Claimant and his attorney stated that they should change the onset date to March 28, 2012, the last day Claimant
worked. AR 39. It appears the intention was to change the alleged onset date to March 28, 2012, and the change was
accepted by the ALJ. As such, the Court will use the amended onset date of March 28, 2012, in its review.

1 Mr. Lauzon timely filed the present action challenging the denial of benefits,
2 on August 17, 2016. ECF No. 3. Accordingly, Mr. Lauzon's claims are properly
3 before this Court pursuant to 42 U.S.C. § 405(g).

4 II. Sequential Evaluation Process

5 The Social Security Act defines disability as the "inability to engage in any
6 substantial gainful activity by reason of any medically determinable physical or
7 mental impairment which can be expected to result in death or which has lasted or
8 can be expected to last for a continuous period of not less than twelve months." 42
9 U.S.C. §§ 423(d)(1)(A), 1382c(a)(3)(A). A claimant shall be determined to be
10 under a disability only if the claimant's impairments are of such severity that the
11 claimant is not only unable to do his previous work, but cannot, considering
12 claimant's age, education, and work experience, engage in any other substantial
13 gainful work that exists in the national economy. 42 U.S.C. §§ 423(d)(2)(A) &
14 1382c(a)(3)(B).

15 The Commissioner has established a five-step sequential evaluation process
16 for determining whether a claimant is disabled within the meaning of the Social
17 Security Act. 20 C.F.R. §§ 404.1520(a)(4) & 416.920(a)(4); *Lounsbury v.*
18 *Barnhart*, 468 F.3d 1111, 1114 (9th Cir. 2006).

19 Step one inquires whether the claimant is presently engaged in "substantial
20 gainful activity." 20 C.F.R. §§ 404.1520(b) & 416.920(b). Substantial gainful

1 activity is defined as significant physical or mental activities done or usually done
2 for profit. 20 C.F.R. §§ 404.1572 & 416.972. If the claimant is engaged in
3 substantial activity, he or she is not entitled to disability benefits. 20 C.F.R. §§
4 404.1571 & 416.920(b). If not, the ALJ proceeds to step two.

5 Step two asks whether the claimant has a severe impairment, or combination
6 of impairments, that significantly limits the claimant's physical or mental ability to
7 do basic work activities. 20 C.F.R. §§ 404.1520(c) & 416.920(c). A severe
8 impairment is one that has lasted or is expected to last for at least twelve months,
9 and must be proven by objective medical evidence. 20 C.F.R. §§ 404.1508-09 &
10 416.908-09. If the claimant does not have a severe impairment, or combination of
11 impairments, the disability claim is denied, and no further evaluative steps are
12 required. Otherwise, the evaluation proceeds to the third step.

13 Step three involves a determination of whether any of the claimant's severe
14 impairments "meets or equals" one of the listed impairments acknowledged by the
15 Commissioner to be sufficiently severe as to preclude substantial gainful activity.
16 20 C.F.R. §§ 404.1520(d), 404.1525, 404.1526 & 416.920(d), 416.925, 416.926;
17 20 C.F.R. § 404 Subpt. P. App. 1 ("the Listings"). If the impairment meets or
18 equals one of the listed impairments, the claimant is *per se* disabled and qualifies
19 for benefits. *Id.* If the claimant is not *per se* disabled, the evaluation proceeds to the
20 fourth step.

1 Step four examines whether the claimant’s residual functional capacity
2 enables the claimant to perform past relevant work. 20 C.F.R. §§ 404.1520(e)-(f) &
3 416.920(e)-(f). If the claimant can still perform past relevant work, the claimant is
4 not entitled to disability benefits and the inquiry ends. *Id.*

5 Step five shifts the burden to the Commissioner to prove that the claimant is
6 able to perform other work in the national economy, taking into account the
7 claimant’s age, education, and work experience. *See* 20 C.F.R. §§ 404.1512(f),
8 404.1520(g), 404.1560(c) & 416.912(f), 416.920(g), 416.960(c). To meet this
9 burden, the Commissioner must establish that (1) the claimant is capable of
10 performing other work; and (2) such work exists in “significant numbers in the
11 national economy.” 20 C.F.R. §§ 404.1560(c)(2); 416.960(c)(2); *Beltran v. Astrue*,
12 676 F.3d 1203, 1206 (9th Cir. 2012).

13 III. Standard of Review

14 A district court's review of a final decision of the Commissioner is governed
15 by 42 U.S.C. § 405(g). The scope of review under § 405(g) is limited, and the
16 Commissioner's decision will be disturbed “only if it is not supported by
17 substantial evidence or is based on legal error.” *Hill v. Astrue*, 698 F.3d 1144,
18 1158-59 (9th Cir. 2012) (citing § 405(g)). Substantial evidence means “more than a
19 mere scintilla but less than a preponderance; it is such relevant evidence as a
20 reasonable mind might accept as adequate to support a conclusion.” *Sandgathe v.*

1 *Chater*, 108 F.3d 978, 980 (9th Cir.1997) (quoting *Andrews v. Shalala*, 53 F.3d
2 1035, 1039 (9th Cir. 1995)) (internal quotation marks omitted). In determining
3 whether the Commissioner’s findings are supported by substantial evidence, “a
4 reviewing court must consider the entire record as a whole and may not affirm
5 simply by isolating a specific quantum of supporting evidence.” *Robbins v. Soc.*
6 *Sec. Admin.*, 466 F.3d 880, 882 (9th Cir. 2006) (quoting *Hammock v. Bowen*, 879
7 F.2d 498, 501 (9th Cir. 1989)).

8 In reviewing a denial of benefits, a district court may not substitute its
9 judgment for that of the ALJ. *Matney v. Sullivan*, 981 F.2d 1016, 1019 (9th Cir.
10 1992). If the evidence in the record “is susceptible to more than one rational
11 interpretation, [the court] must uphold the ALJ's findings if they are supported by
12 inferences reasonably drawn from the record.” *Molina v. Astrue*, 674 F.3d 1104,
13 1111 (9th Cir. 2012); *see also Thomas v. Barnhart*, 278 F.3d 947, 954 (9th Cir.
14 2002) (if the “evidence is susceptible to more than one rational interpretation, one
15 of which supports the ALJ’s decision, the conclusion must be upheld”). Moreover,
16 a district court “may not reverse an ALJ's decision on account of an error that is
17 harmless.” *Molina*, 674 F.3d at 1111. An error is harmless “where it is
18 inconsequential to the [ALJ's] ultimate nondisability determination.” *Id.* at 1115.
19 The burden of showing that an error is harmful generally falls upon the party
20 appealing the ALJ's decision. *Shinseki v. Sanders*, 556 U.S. 396, 409–10 (2009).

1 **IV. Statement of Facts**

2 The facts of the case are set forth in detail in the transcript of proceedings
3 and only briefly summarized here. Mr. Lauzon was 38 years old at the amended
4 alleged date of onset. AR 21, 218, 225. He has at least a high school education and
5 some college. AR 21, 65, 211, 396-97, 635, 666. Mr. Lauzon is able to
6 communicate in English. AR 21. Mr. Lauzon previously worked as a truck driver,
7 lawn service worker, stock clerk, and construction worker. AR 21, 211, 84, 288.

8 **V. The ALJ's Findings**

9 The ALJ determined that Mr. Lauzon was not under a disability within the
10 meaning of the Act from August 21, 2009, through the date of the ALJ's decision.
11 AR 22.

12 **At step one**, the ALJ found that Mr. Lauzon had not engaged in substantial
13 gainful activity since August 21, 2009 (citing 20 C.F.R. §§ 404.1571 et seq. &
14 416.971 et seq.). AR 14.

15 **At step two**, the ALJ found Mr. Lauzon had the following severe
16 impairments: degenerative disc disease, bilateral shoulder injuries, depression, and
17 anxiety (citing 20 C.F.R. §§ 404.1520(c) & 416.920(c)). AR 14.

18 **At step three**, the ALJ found that Mr. Lauzon did not have an impairment or
19 combination of impairments that meets or medically equals the severity of one of
20 the listed impairments in 20 C.F.R. § 404, Subpt. P, App. 1. AR 16.

1 credibility; and (2) improperly considering and weighing the medical opinion
2 evidence.

3 **VII. Discussion**

4 **A. The ALJ Properly Discounted Mr. Lauzon’s Credibility.**

5 An ALJ engages in a two-step analysis to determine whether a claimant’s
6 testimony regarding subjective symptoms is credible. *Tommasetti v. Astrue*, 533
7 F.3d 1035, 1039 (9th Cir. 2008). First, the claimant must produce objective
8 medical evidence of an underlying impairment or impairments that could
9 reasonably be expected to produce some degree of the symptoms alleged. *Id.*
10 Second, if the claimant meets this threshold, and there is no affirmative evidence
11 suggesting malingering, “the ALJ can reject the claimant’s testimony about the
12 severity of [her] symptoms only by offering specific, clear, and convincing reasons
13 for doing so.” *Id.*

14 In weighing a claimant's credibility, the ALJ may consider many factors,
15 including, “(1) ordinary techniques of credibility evaluation, such as the claimant's
16 reputation for lying, prior inconsistent statements concerning the symptoms, and
17 other testimony by the claimant that appears less than candid; (2) unexplained or
18 inadequately explained failure to seek treatment or to follow a prescribed course of
19 treatment; and (3) the claimant's daily activities.” *Smolen*, 80 F.3d at 1284. When
20 evidence reasonably supports either confirming or reversing the ALJ's decision, the

1 Court may not substitute its judgment for that of the ALJ. *Tackett v. Apfel*, 180
2 F.3d 1094, 1098 (9th Cir.1999). Here, the ALJ found that the medically
3 determinable impairments could reasonably be expected to produce the symptoms
4 Mr. Lauzon alleges; however, the ALJ determined that Mr. Lauzon's statements
5 regarding intensity, persistence, and limiting effects of the symptoms were not
6 entirely credible. AR 18. The ALJ provided three reasons for discrediting Mr.
7 Lauzon's subjective complaint testimony. AR 18-19.

8 First, the ALJ stated that Mr. Lauzon's activities did not support his
9 allegations of total disability. AR 18-19. Activities inconsistent with the alleged
10 symptoms are proper grounds for questioning the credibility of an individual's
11 subjective allegations. *Molina*, 674 F.3d at 1113 (“[e]ven where those activities
12 suggest some difficulty functioning, they may be grounds for discrediting the
13 claimant's testimony to the extent that they contradict claims of a totally
14 debilitating impairment”); *see also Rollins v. Massanari*, 261 F.3d 853, 857 (9th
15 Cir. 2001). The ALJ correctly noted that Mr. Lauzon had worked as a truck driver
16 and worked mowing lawns after his initial alleged onset date in September 2009.
17 AR 18, 238, 391, 635. Additionally, the ALJ correctly noted that Mr. Lauzon's
18 doctors released him to full work in November 2009, after his shoulder injury, and
19 that his back impairment existed prior to the 2009 alleged onset date but he was
20 still able to engage in substantial gainful activity. AR 18, 348. While these

1 activities occurred prior to the amended onset date, they remain relevant.
2 Additionally, the ALJ determined Mr. Lauzon is not credible because “the
3 objective medical evidence does not support the level of impairment claimed [and]
4 Claimant is alleging a complete inability to work” due to physical pain and
5 depression. AR 18. However, even after the amended onset date in March 2012,
6 Mr. Lauzon reported that he can walk 4 to 12 blocks before he needs to rest, and in
7 July 2013, he reported painting the walls of his church and helping friends weed
8 their yard. AR 18, 69, 308, 501. These activities are inconsistent with Mr.
9 Lauzon’s allegations of total disability.

10 Furthermore, additional evidence in the record to support the ALJ’s
11 determination that Mr. Lauzon is not as impaired as he claims. An x-ray of the
12 spine in March 2013, showed only very mild disc height reduction and minimal
13 apophyseal spondylosis that was not considered clinically significant and did not
14 reveal any significant findings. AR 494, 519-20, 673. An MRI of Mr. Lauzon’s
15 spine in May 2013, showed mild narrowing of some disc height, normal alignment,
16 and a disc protrusion contacting a nerve root. AR 541-43. X-rays of Mr. Lauzon’s
17 cervical spine in April 2014 were negative for spinal injury or issues. AR 687, 690,
18 693-94. In January 2015, Mr. Lauzon’s treating physician noted that Mr. Lauzon’s
19 diagnostic tests did not show any significant abnormality to explain his back pain.

1 AR 737. Mr. Lauzon also had multiple normal physical examinations with normal
2 range of motion in his extremities and no acute distress. AR 488, 700, 733.

3 Second, the ALJ discounted Mr. Lauzon's credibility due to a lack of mental
4 health treatment sought by Mr. Lauzon and the fact that Mr. Lauzon voluntarily
5 left mental health treatment after a few months. AR 19. A claimant's statements
6 may be less credible when treatment is inconsistent with the level of complaints or
7 a claimant is not following treatment prescribed without good reason. *Molina*, 674
8 F.3d at 1114; *Fair v. Bowen*, 885 F.2d 597, 603 (9th Cir. 1989) ("Unexplained, or
9 inadequately explained, failure to seek treatment . . . can cast doubt on the sincerity
10 of [a] claimant's pain testimony."). Evidence in the record supports the ALJ's
11 determination that Mr. Lauzon is not as impaired as claimed. At the hearing, Mr.
12 Lauzon stated that his current medication for his depression is effective. AR 74. In
13 January 2015, his treating physician stated that Mr. Lauzon's depression is stable
14 with his medication. AR 737. Additionally, Mr. Lauzon voluntarily quit mental
15 health counseling on August 26, 2013. AR 499.

16 Third, the ALJ noted an additional specific inconsistency with the record.
17 AR 18. Mr. Lauzon alleges that his entire leg goes numb after sitting for one and a
18 half hours or standing for even less than one minute. AR 18, 41-44. The ALJ
19 correctly stated that this allegation is not consistent with the objective medical
20 evidence and, with the exception of a couple of outliers in early 2013, the

1 complaints of weakness in his legs are not supported by objective evidence in the
2 record; and there is no support for his complaints of numbness. AR 18.

3 The Court does not find the ALJ erred when assessing Mr. Lauzon’s
4 credibility because Mr. Lauzon’s allegations of complete disability are inconsistent
5 with the record and medical evidence and Mr. Lauzon’s activities reflect a level of
6 functioning that is inconsistent with his claims of total disability.

7 **B. The ALJ Properly Weighed the Medical Opinion Evidence.**

8 **a. Legal Standard.**

9 The Ninth Circuit has distinguished between three classes of medical
10 providers in defining the weight to be given to their opinions: (1) treating
11 providers, those who actually treat the claimant; (2) examining providers, those
12 who examine but do not treat the claimant; and (3) non-examining providers, those
13 who neither treat nor examine the claimant. *Lester v. Chater*, 81 F.3d 821, 830 (9th
14 Cir. 1996) (as amended).

15 A treating provider’s opinion is given the most weight, followed by an
16 examining provider, and finally a non-examining provider. *Id.* at 830-31. In the
17 absence of a contrary opinion, a treating or examining provider’s opinion may not
18 be rejected unless “clear and convincing” reasons are provided. *Id.* at 830. If a
19 treating or examining provider’s opinion is contradicted, it may only be discounted
20

1 for “specific and legitimate reasons that are supported by substantial evidence in
2 the record.” *Id.* at 830-31.

3 The ALJ may meet the specific and legitimate standard by “setting out a
4 detailed and thorough summary of the facts and conflicting clinical evidence,
5 stating his interpretation thereof, and making findings.” *Magallanes v. Bowen*, 881
6 F.2d 747, 751 (9th Cir. 1989) (internal citation omitted). When rejecting a treating
7 provider’s opinion on a psychological impairment, the ALJ must offer more than
8 his or her own conclusions and explain why he or she, as opposed to the provider,
9 is correct. *Embrey v. Bowen*, 849 F.2d 418, 421-22 (9th Cir. 1988).

10 **b. Dr. John Arnold, Ph.D.**

11 In March and September 2011, Dr. Arnold examined Mr. Lauzon and
12 provided an opinion regarding his mental limitations. AR 20, 603-10, 612-24. Dr.
13 Arnold noted three areas in which Mr. Lauzon would have moderate limitations for
14 work related activities, otherwise any other limitations were mild. AR 605, 614.
15 Dr. Arnold opined that Mr. Lauzon was capable of understanding and carrying out
16 simple and moderately complex instructions; he can concentrate for short periods
17 of time; he can complete simple tasks without close supervision and not disrupt
18 others; he can make simple work-related decisions; he would work best in
19 positions that have only superficial interactions with others; he can ask questions
20 and request assistance; he can use the bus for transportation; he can adapt to

1 changes in a work setting and set independent goals; and he can recognize hazards
2 and take appropriate precautions. AR 606, 615.

3 The ALJ generally credited Dr. Arnold's reports, but discounted the check-
4 box forms. AR 20. It appears Mr. Lauzon takes issue with the ALJ's discounting of
5 the check-box forms presented by Dr. Arnold but not the weight given the
6 narrative reports. Notably, the mental limitations assessed by the ALJ are more
7 restrictive than those proposed by Dr. Arnold, and Dr. Arnold's reports were
8 prepared the year before the relevant period. Additionally, the ALJ stated that the
9 portions that were discounted were check-box forms with vague and ill-defined
10 terms, and the check-box forms are not consistent with the benign findings in the
11 narrative portions of the report. AR 20.

12 A discrepancy between a doctor's recorded observations and opinions is a
13 clear and convincing reason for not relying on the doctor's opinion. *Bayliss v.*
14 *Barnhart*, 427 F.3d 1211, 1216 (9th Cir. 2005). Additionally, "an ALJ need not
15 accept the opinion of a doctor if that opinion is brief, conclusory, and inadequately
16 supported by clinical findings." *Id.* at 1216. Furthermore, check-box form
17 statements may be given less weight when they are conclusory in nature and lack
18 substantive medical findings to support them or they are inconsistent with the
19 underlying medical records. *Batson v. Comm'r of Soc. Sec. Admin.*, 359 F.3d 1190,
20 1195 (9th Cir. 2004); *Garrison v. Colvin*, 759 F.3d 995, 1014 (9th Cir. 2014).

1 Notably, agency policy directs that it is the narrative portion written by the doctor
2 that the adjudicators are to use in the assessment of the RFC. Program Operations
3 Manual System (POMS) DI 25020.010(B)(1); *Warre v. Comm'r of Soc. Sec.*
4 *Admin.*, 439 F.3d 1001, 1005 (9th Cir. 2006) (“The POMS does not have the force
5 of law, but it is persuasive authority.”). The ALJ here did not reject the narrative
6 portion of Dr. Arnold’s report and assessment and properly relied on the narrative
7 portion in determining Mr. Lauzon’s RFC. *See Rounds v. Comm'r Soc. Sec.*
8 *Admin.*, 807 F.3d 996, 1005 (9th Cir. 2015).

9 When the ALJ presents a reasonable interpretation that is supported by the
10 evidence, it is not the role of the courts to second-guess it. *Rollins*, 261 F.3d 853,
11 857. The Court “must uphold the ALJ's findings if they are supported by inferences
12 reasonably drawn from the record.” *Molina*, 674 F.3d 1104, 1111; *see also*
13 *Thomas*, 278 F.3d 947, 954 (if the “evidence is susceptible to more than one
14 rational interpretation, one of which supports the ALJ’s decision, the conclusion
15 must be upheld”). In discounting the check-box forms in Dr. Arnold’s reports, the
16 ALJ supported the determination with specific and legitimate reasons supported by
17 substantial evidence in the record. Thus, the Court finds the ALJ did not err in his
18 consideration of Dr. Arnold’s opinion.

1 **c. Dr. Debra D. Brown, Ph.D.**

2 In May 2013 and December 2014, Dr. Brown examined Mr. Lauzon and
3 provided an opinion regarding his mental limitations. AR 21, 640-45, 665-70. Dr.
4 Brown assigned Mr. Lauzon a GAF rating of 51, indicating moderate symptoms or
5 moderate difficulty in social, occupational, or school functioning. *Id.* Additionally,
6 Dr. Brown opined that Mr. Lauzon would have a marked limitation in his ability to
7 perform activities within a schedule, maintain regular attendance, and be punctual
8 within customary tolerances without special supervision, and she found there were
9 four other areas in which Mr. Lauzon would have moderate limitations for work
10 related activities. *Id.*

11 The ALJ generally credited Dr. Arnold’s reports, but discounted the check-
12 box portions. AR 21. The ALJ stated that the portions that were discounted were
13 check-box portions with vague and ill-defined terms, and the check-box forms are
14 not consistent with the entirely normal medical evidence of record. *Id.* An ALJ
15 may reject a doctor’s opinion when it is inconsistent with other evidence in the
16 record. *See Morgan v. Comm’r of the Soc. Sec. Admin.*, 169 F.3d 595, 600 (9th Cir.
17 1999). Additionally, as noted above, check-box form statements may be given less
18 weight when they are conclusory in nature and lack substantive medical findings to
19 support them or they are inconsistent with the underlying medical records. *Batson*,
20 359 F.3d at 1195; *Garrison*, 759 F.3d at 1014. Again, agency policy directs that it

1 is the narrative portion written by the doctor that the adjudicators are to use in the
2 assessment of the RFC. Program Operations Manual System (POMS) DI
3 25020.010(B)(1). The ALJ here did not reject the narrative portion of Dr. Brown’s
4 report and thus properly relied on the narrative portion in determining Mr.
5 Lauzon’s RFC. *See Rounds*, 807 F.3d at 1005.

6 When the ALJ presents a reasonable interpretation that is supported by the
7 evidence, it is not the role of the courts to second-guess it. *Rollins*, 261 F.3d 853,
8 857. The Court “must uphold the ALJ’s findings if they are supported by inferences
9 reasonably drawn from the record.” *Molina*, 674 F.3d 1104, 1111. In discounting
10 the check-box forms in Dr. Brown’s reports, the ALJ supported the determination
11 with specific and legitimate reasons supported by substantial evidence in the
12 record. Thus, the Court finds the ALJ did not err in his consideration of Dr.
13 Brown’s opinion.

14 **d. Dr. Mahlon Dalley, Ph.D.**

15 In May 2012, Dr. Dalley examined Mr. Lauzon and provided an opinion
16 regarding his mental limitations. AR 20, 634-38. Dr. Dalley assigned Mr. Lauzon a
17 GAF rating of 57, indicating moderate symptoms or moderate difficulty in social,
18 occupational, or school functioning. *Id.* Additionally, Dr. Dalley opined that Mr.
19 Lauzon’s depression, anxiety, and panic attacks were likely to affect his ability to
20 obtain and maintain normal employment, and he would have difficulty focusing

1 and paying attention to work activities and difficulty getting along with coworkers.
2 *Id.* Dr. Dalley also opined that the prognosis for Mr. Lauzon to return to work
3 looked promising, especially given his current medication and if he were given
4 vocational counseling on how to enter the work force, he should be able to enter
5 the workforce within three to nine months. AR 20, 636.

6 The ALJ gave Dr. Dalley’s opinion great weight. AR 20. In giving Dr.
7 Dalley’s opinion great weight, the ALJ stated that “it is the most thoroughly
8 explained and persuasive of the Department of Social and Human Services
9 reports.” AR 20.

10 While it is not clear, it appears Mr. Lauzon takes issue with the ALJ’s
11 assessment of great weight to the portion of Dr. Dalley’s opinion stating that the
12 prognosis looks good and Mr. Lauzon could possibly return to the work force
13 within three to nine months. Mr. Lauzon does not state that he takes issue with the
14 weight given, and does not argue that less weight should have been given or the
15 opinion should have been rejected; instead he briefly notes that the report was
16 created only two months into the relevant period and that he has not returned to the
17 workforce after the opined time frame even after receiving medication and mental
18 health counseling (he does not assert he has received any vocational counseling on
19 how to enter the workforce, as suggested by Dr. Dalley). Mr. Lauzon’s issue with a
20 portion of Dr. Dalley’s opinion and Mr. Lauzon’s notation that he has not returned

1 to work does not establish error. It is the ALJ, and not the claimant, who is
2 responsible for weighing the evidence for probity and credibility. *See Sample v.*
3 *Schweiker*, 694 F.2d 639, 643 (9th Cir. 1982). Furthermore, it is the ALJ’s duty to
4 explain why “significant probative evidence has been rejected,” rather than explain
5 why it was not. *Vincent on Behalf of Vincent v. Heckler*, 739 F.2d 1393, 1394–95
6 (9th Cir. 1984).

7 When the ALJ presents a reasonable interpretation that is supported by the
8 evidence, it is not the role of the courts to second-guess it. *Rollins*, 261 F.3d at 857.
9 The Court “must uphold the ALJ’s findings if they are supported by inferences
10 reasonably drawn from the record.” *Molina*, 674 F.3d at 1111; *see also Thomas*,
11 278 F.3d at 954 (if the “evidence is susceptible to more than one rational
12 interpretation, one of which supports the ALJ’s decision, the conclusion must be
13 upheld”).

14 The opinion of Dr. Dalley is that of a medical provider given after an
15 examination of Mr. Lauzon. A single sentence of the opinion is only partially and
16 tangentially contradicted by the fact that Mr. Lauzon did not return to work as Dr.
17 Dalley opined was possible, and the opinion is not contradicted by any other
18 medical source provider. The Court finds that the ALJ did not err in the
19 consideration of Dr. Dalley’s opinion.

1 **VIII. Conclusion**

2 Having reviewed the record and the ALJ's findings, the Court finds the
3 ALJ's decision is supported by substantial evidence and is free from legal error.

4 Accordingly, **IT IS ORDERED:**

5 1. Plaintiff's Motion for Summary Judgment, **ECF No. 13**, is **DENIED**.

6 2. Defendant's Motion for Summary Judgment, **ECF No. 14**, is
7 **GRANTED**.

8 3. Judgment shall be entered in favor of Defendant and the file shall be
9 **CLOSED**.

10 **IT IS SO ORDERED.** The District Court Executive is directed to enter this Order,
11 forward copies to counsel and **close the file**.

12 **DATED** this 5th day of July, 2017.

13
14 *s/Robert H. Whaley*
15 **ROBERT H. WHALEY**
Senior United States District Judge