

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Mar 30, 2022

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

SARAH S.,

Plaintiff,

v.

KILOLO KIJAKAZI,
ACTING COMMISSIONER OF
SOCIAL SECURITY,¹

Defendant.

No. 4:20-cv-05147-JAG

ORDER GRANTING
DEFENDANT’S MOTION
FOR SUMMARY JUDGMENT

BEFORE THE COURT are cross-motions for summary judgment. ECF No. 18, 19. Attorney Kathryn Higgs represents Sarah S. (Plaintiff); Special Assistant United States Attorney Erin Highland represents the Commissioner of Social Security (Defendant). The parties have consented to proceed before a magistrate judge. ECF No. 6. After reviewing the administrative record and the

¹ Kilolo Kijakazi became the Acting Commissioner of Social Security on July 9, 2021. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Kilolo Kijakazi is substituted for Andrew M. Saul as the defendant in this suit. No further action need be taken to continue this suit. *See* 42 U.S.C. § 405(g).

1 briefs filed by the parties, the Court **GRANTS** Defendant’s Motion for Summary
2 Judgment and **DENIES** Plaintiff’s Motion for Summary Judgment.

3 **JURISDICTION**

4 Plaintiff filed applications for Disability Insurance Benefits and
5 Supplemental Security Income on April 2, 2018, alleging disability since March 7,
6 2018, due to generalized anxiety disorder, bipolar disorder, ADHD, urticaria, mild
7 intermittent asthma, dermatitis, allergic rhinitis, insomnia, and depression. Tr. 73-
8 74. The applications were denied initially and upon reconsideration. Tr. 135-38,
9 145-50. Administrative Law Judge (ALJ) Stewart Stallings held a hearing on
10 October 2, 2019, Tr. 36-72, and issued an unfavorable decision on November 7,
11 2019. Tr. 15-28. Plaintiff requested review by the Appeals Council and the
12 Appeals Council denied the request for review on July 18, 2020. Tr. 1-5. The
13 ALJ’s November 2019 decision became the final decision of the Commissioner,
14 which is appealable to the district court pursuant to 42 U.S.C. § 405(g). Plaintiff
15 filed this action for judicial review on August 25, 2020. ECF No. 1.

16 **STATEMENT OF FACTS**

17 Plaintiff was born in 1985 and was 32 years old as of her alleged onset date.
18 Tr. 26. She has a high school education with some college courses. Tr. 41, 505.
19 She has worked in retail, food service, and customer service, with jobs rarely
20 lasting longer than six months to a year. Tr. 57-62, 505, 515. She reported she has
21 always been fired from jobs because of her attitude or for not fitting in, and has
22 consistently reported being unable to be around people. Tr. 504, 515, 533, 581,
23 979, 997. In addition to her mental health limitations, she has suffered from
24 persistent dermatitis and hives, making her unable to wear closed shoes and
25 necessitating loose-fitting clothing. Tr. 45, 514-15.

26 **STANDARD OF REVIEW**

27 The ALJ is responsible for determining credibility, resolving conflicts in
28 medical testimony, and resolving ambiguities. *Andrews v. Shalala*, 53 F.3d 1035,

1 1039 (9th Cir. 1995). The ALJ's determinations of law are reviewed *de novo*, with
2 deference to a reasonable interpretation of the applicable statutes. *McNatt v. Apfel*,
3 201 F.3d 1084, 1087 (9th Cir. 2000). The decision of the ALJ may be reversed
4 only if it is not supported by substantial evidence or if it is based on legal error.
5 *Tackett v. Apfel*, 180 F.3d 1094, 1097 (9th Cir. 1999). Substantial evidence is
6 defined as being more than a mere scintilla, but less than a preponderance. *Id.* at
7 1098. Put another way, substantial evidence is such relevant evidence as a
8 reasonable mind might accept as adequate to support a conclusion. *Richardson v.*
9 *Perales*, 402 U.S. 389, 401 (1971). If the evidence is susceptible to more than one
10 rational interpretation, the Court may not substitute its judgment for that of the
11 ALJ. *Tackett*, 180 F.3d at 1097; *Morgan v. Commissioner of Social Sec. Admin.*,
12 169 F.3d 595, 599 (9th Cir. 1999). If substantial evidence supports the
13 administrative findings, or if conflicting evidence supports a finding of either
14 disability or non-disability, the ALJ's determination is conclusive. *Sprague v.*
15 *Bowen*, 812 F.2d 1226, 1229-1230 (9th Cir. 1987). Nevertheless, a decision
16 supported by substantial evidence will be set aside if the proper legal standards
17 were not applied in weighing the evidence and making the decision. *Brawner v.*
18 *Secretary of Health and Human Services*, 839 F.2d 432, 433 (9th Cir. 1988).

19 SEQUENTIAL EVALUATION PROCESS

20 The Commissioner has established a five-step sequential evaluation process
21 for determining whether a person is disabled. 20 C.F.R. §§ 404.1520(a),
22 416.920(a); *Bowen v. Yuckert*, 482 U.S. 137, 140-142 (1987). In steps one through
23 four the claimant bears the burden of establishing a prima facie case of disability.
24 *Tackett*, 180 F.3d at 1098-1099. This burden is met once a claimant establishes that
25 a physical or mental impairment prevents the claimant from engaging in past
26 relevant work. 20 C.F.R. §§ 404.1520(a)(4), 416.920(a)(4). If a claimant cannot
27 perform past relevant work, the ALJ proceeds to step five, and the burden shifts to
28 the Commissioner to show (1) the claimant can make an adjustment to other work;

1 and (2) the claimant can perform specific jobs that exist in the national economy.
2 *Batson v. Comm'r of Soc. Sec. Admin.*, 359 F.3d 1190, 1193-94 (9th Cir. 2004). If
3 a claimant cannot make an adjustment to other work in the national economy, the
4 claimant will be found disabled. 20 C.F.R. §§ 404.1520(a)(4)(v), 416.920(a)(4)(v).

5 **ADMINISTRATIVE FINDINGS**

6 On November 7, 2019, the ALJ issued a decision finding Plaintiff was not
7 disabled as defined in the Social Security Act.

8 At step one, the ALJ found Plaintiff had not engaged in substantial gainful
9 activity since the alleged onset date. Tr. 18.

10 At step two, the ALJ determined Plaintiff had the following severe
11 impairments: bipolar disorder; generalized anxiety disorder; attention deficit
12 hyperactivity disorder; skin rash (idiopathic urticaria and dermatitis) primarily
13 affecting the feet and ankles. *Id.*

14 At step three, the ALJ found Plaintiff did not have an impairment or
15 combination of impairments that met or medically equaled the severity of one of
16 the listed impairments. Tr. 18-20.

17 The ALJ assessed Plaintiff's Residual Functional Capacity (RFC) and found
18 she could perform light work, with additional limitations:

19 The claimant can lift up to 20 pounds occasionally; lift and carry
20 up to 10 pounds frequently; stand or walk for about 6 hours per
21 8-hour workday; sit for about 6 hours per 8-hour workday with
22 normal breaks. She would need a sit/stand option, defined as
23 change from a standing position to a sitting position, or vice-
24 versa, every 30 minutes for about 5 minutes at the worker's
25 discretion. The claimant can never climb ladders, ropes or
26 scaffolds; and occasionally climb ramps and stairs. She must
27 avoid all exposure to extreme heat, wetness or humidity, moving
28 or dangerous machinery, and unprotected heights. She would
need a low stress job, defined as no production pace or conveyer
belt type-work, a predictable work setting with no more than
occasional simple workplace changes, and no sales quota type-

1 work. Work that requires no more than brief and superficial
2 interaction with the public and co-workers; and occasional
3 interaction with supervisors. Further, the claimant would need
4 work that does not require a dress code (i.e., the individual would
5 be allowed to wear loose fitting clothing and/or open-type shoes
6 to work).

6 Tr. 20-21.

7 At step four, the ALJ found Plaintiff was unable to perform her past relevant
8 work as a customer complaint clerk, sales clerk, security guard, or material
9 handler. Tr. 26.

10 At step five, the ALJ found that, based on the testimony of the vocational
11 expert, and considering Plaintiff's age, education, work experience, and RFC,
12 Plaintiff was capable of performing jobs that existed in significant numbers in the
13 national economy, including the jobs of general clerk, mail room clerk, and office
14 helper. Tr. 26-27.

15 The ALJ thus concluded Plaintiff was not under a disability within the
16 meaning of the Social Security Act at any time from the alleged onset date through
17 the date of the decision. Tr. 27.

18 ISSUES

19 The question presented is whether substantial evidence supports the ALJ's
20 decision denying benefits and, if so, whether that decision is based on proper legal
21 standards.

22 Plaintiff contends the ALJ erred by (1) conducting an inadequate analysis at
23 step three; (2) improperly rejecting Plaintiff's subjective complaints; (3)
24 improperly rejecting medical opinions; and (4) making job findings based on an
25 RFC that did not account for all of Plaintiff's limitations.

1 **DISCUSSION**

2 **1. Step Three**

3 Plaintiff argues the ALJ erred at step three by failing to find Plaintiff’s
4 conditions met or equaled Listing 8.05 for dermatitis. ECF No. 18 at 6-8.

5 At step three of the sequential evaluation process, the ALJ considers whether
6 one or more of the claimant’s impairments meets or equals an impairment listed in
7 Appendix 1 to Subpart P of the regulations. 20 C.F.R. §§ 404.15920(a)(4)(iii),
8 416.920(a)(4)(iii). Each Listing sets forth the “symptoms, signs, and laboratory
9 findings” which must be established for a claimant’s impairment to meet the
10 Listing. *Tackett v. Apfel*, 180 F.3d 1094, 1099 (9th Cir. 1999). If a claimant’s
11 condition meets or equals a Listing, the claimant is considered disabled without
12 further inquiry. 20 C.F.R. §§ 404.1520(d), 416.920(d).

13 Listing 8.05 requires a showing of dermatitis with “extensive skin lesions
14 that persist for at least 3 months despite continuing treatment as prescribed.” 20
15 C.F.R. Part 404, Subpart P, Appendix 1, § 8.05 (“Listing 8.05”). “Extensive skin
16 lesions” are defined as

17 those that involve multiple body sites or critical body areas, and
18 result in a very serious limitation. Examples of extensive skin
19 lesions that result in a very serious limitation include but are not
20 limited to:

- 21 a. Skin lesions that interfere with the motion of your
22 joints and that very seriously limit your use of more
23 than one extremity; that is, two upper extremities,
24 two lower extremities, or one upper and one lower
25 extremity.
- 26 b. Skin lesions on the palms of both hands that very
27 seriously limit your ability to do fine and gross
28 motor movements.

1 c. Skin lesions on the soles of both feet, the perineum,
2 or both inguinal areas that very seriously limit your
3 ability to ambulate.

4 20 C.F.R. Part 404, Subpart P, Appendix 1, § 8.00C.1.

5 The ALJ found the medical evidence did not document listing-level severity
6 and noted that no medical source had mentioned findings equivalent to the criteria
7 of any listed impairment. Tr. 18.

8 Plaintiff argues the ALJ's findings were not specific enough and asserts the
9 records support a finding of listing-level dermatitis based on her severe hives and
10 lesions on her ankles and feet, despite ongoing injections and medications.

11 ECF No. 18 at 6-8. Defendant argues Plaintiff failed to show that her condition
12 affects any motion of her joints or her ability to walk, and asserts that the records
13 show her symptoms are controlled with injections and have not persisted for three
14 months despite continued treatment. ECF No. 19 at 3-5. Defendant further asserts
15 that the ALJ sufficiently discussed and evaluated the evidence throughout the
16 decision and was not required to provide the entire analysis under the step three
17 heading. *Id.* at 6.

18 The Court finds the ALJ did not err. "An ALJ must evaluate the relevant
19 evidence before concluding that a claimant's impairments do not meet or equal a
20 listed impairment. A boilerplate finding is insufficient to support a conclusion that
21 a claimant's impairment" does not meet or equal a listed impairment. *Lewis v.*
22 *Apfel*, 236 F.3d 503, 512 (9th Cir. 2001). However, the ALJ is not required to state
23 why a claimant's condition fails to satisfy every criteria of the listing if the ALJ
24 adequately summarizes and evaluates the evidence. *See Gonzalez v. Sullivan*, 914
25 F.2d 1197, 1200-01 (9th Cir.1990); *Lewis*, 236 F.3d at 512. The ALJ reasonably
26 discussed the medical evidence throughout the decision, including evidence that
27 Plaintiff's skin condition occasionally flared up, but for the most part was
28 controlled by Xolair injections. Tr. 22.

1 The burden of proof is on the claimant to establish her condition meets or
2 equals any of the impairments in the Listings. See *Tackett*, 180 F.3d at 1098.
3 Despite alleging in her Reply Brief that Listing 8.05 “does not call for or require
4 functional limitations,” (ECF No. 20 at 2), the definition of extensive skin lesions
5 indicates that there must be a very serious limitation, such as in the inability to
6 walk or use the hands. There is no indication in the record that Plaintiff
7 experienced very serious physical limitations from her lesions for any extended
8 period of time. Therefore, Plaintiff has not met the burden of proof to demonstrate
9 that her condition meets or equals a listing.

10 **2. Plaintiff’s Subjective Statements**

11 Plaintiff alleges the ALJ improperly disregarded her subjective symptom
12 reports. ECF No. 18 at 8-11.

13 It is the province of the ALJ to make determinations regarding a claimant’s
14 subjective complaints. *Andrews v. Shalala*, 53 F.3d 1035, 1039 (9th Cir. 1995).
15 However, the ALJ’s findings must be supported by specific, cogent reasons.
16 *Rashad v. Sullivan*, 903 F.2d 1229, 1231 (9th Cir. 1990). Once the claimant
17 produces medical evidence of an underlying medical impairment, the ALJ may not
18 discredit testimony as to the severity of an impairment merely because it is
19 unsupported by medical evidence. *Reddick v. Chater*, 157 F.3d 715, 722 (9th Cir.
20 1998). Absent affirmative evidence of malingering, the ALJ’s reasons for rejecting
21 the claimant’s testimony must be “specific, clear and convincing.” *Smolen v.*
22 *Chater*, 80 F.3d 1273, 1281 (9th Cir. 1996); *Lester v. Chater*, 81 F.3d 821, 834
23 (9th Cir. 1996). “General findings are insufficient: rather the ALJ must identify
24 what testimony is not credible and what evidence undermines the claimant’s
25 complaints.” *Lester*, 81 F.3d at 834; *Dodrill v. Shalala*, 12 F.3d 915, 918 (9th Cir.
26 1993).

27 The ALJ found Plaintiff’s medically determinable impairments could
28 reasonably be expected to cause the alleged symptoms; however, he found

1 Plaintiff's statements concerning the intensity, persistence and limiting effects of
2 her symptoms to be not entirely consistent with the medical evidence and other
3 evidence in the record. Tr. 21. The ALJ found Plaintiff's allegations were
4 unsupported by evidence showing her skin condition was generally well controlled
5 and her mental health improved with medication and counseling and was generally
6 stable. Tr. 22-24.

7 Plaintiff argues the ALJ misinterpreted the records and asserts that her
8 physical issues persisted despite treatment. ECF No. 18 at 9-10. She further asserts
9 the ALJ's rationale did not indicate how Plaintiff's allegations were inconsistent
10 with the records of her mental health treatment, noting her activities were limited
11 and she was able to use coping skills and manage her anger largely due to the fact
12 that she was not in a work environment. *Id.* at 10-11. Defendant argues the ALJ
13 reasonably interpreted the record and largely accounted for Plaintiff's subjective
14 complaints, given her testimony that she would be able to work as long as she
15 could wear loose clothing and did not have to interact with others. ECF No. 19 at
16 7-13.

17 The Court finds no error. Evidence of medical treatment successfully
18 relieving symptoms can undermine a claim of disability. *Wellington v. Berryhill*,
19 878 F.3d 867, 876 (9th Cir. 2017). An ALJ may consider the type and
20 effectiveness of any medications or other treatments an individual has received for
21 relief of pain or other symptoms. Social Security Ruling 16-3p. The ALJ
22 reasonably interpreted the record as showing Plaintiff's skin condition to be largely
23 controlled when she adhered to her Xolair regimen, as was noted by her treating
24 allergist. Tr. 501, 644, 951-57. The ALJ also reasonably interpreted the mental
25 health treatment records as showing largely normal mental status exams and
26 Plaintiff's repeated reports that she was doing well, was managing her anger, and
27 continued to look for work where she would not have to deal with people. Tr. 536,
28

1 539-41, 589-91, 995-97, 1000, 1003. The Court therefore finds the ALJ offered
2 clear and convincing reasons for his assessment of Plaintiff's subjective reports.

3 **3. Medical Opinions**

4 Plaintiff argues the ALJ erred in evaluating the medical opinion evidence.
5 ECF No. 18 at 12-15, 17-18.²

6 For claims filed on or after March 27, 2017, new regulations apply that
7 change the framework for how an ALJ must weigh medical opinion evidence.
8 Revisions to Rules Regarding the Evaluation of Medical Evidence, 2017 WL
9 168819, 82 Fed. Reg. 5844 (Jan. 18, 2017); 20 C.F.R. §§ 404.1520c, 416.920c.
10 The new regulations provide the ALJ will no longer give any specific evidentiary
11 weight to medical opinions or prior administrative medical findings, including
12 those from treating medical sources. 20 C.F.R. §§ 404.1520c(a), 416.920c(a).
13 Instead, the ALJ will consider the persuasiveness of each medical opinion and
14 prior administrative medical finding, regardless of whether the medical source is
15 an Acceptable Medical Source. 20 C.F.R. §§ 404.1520c(c), 416.920c(c). The ALJ
16 is required to consider multiple factors, including supportability, consistency, the
17 source's relationship with the claimant, any specialization of the source, and other
18 factors (such as the source's familiarity with other evidence in the file or an
19 understanding of Social Security's disability program). *Id.* The regulations make
20 clear that the supportability and consistency of the opinion are the most important
21 factors, and the ALJ must articulate how they considered those factors in
22 determining the persuasiveness of each medical opinion or prior administrative
23 medical finding. 20 C.F.R. §§ 404.1520c(b), 416.920c(b). The ALJ may explain
24 how they considered the other factors, but is not required to do so, except in cases

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26 ² Plaintiff discussed the ALJ's treatment of the state agency doctors'
27 opinions in a subsequent section, but for clarity the Court will address that
28 argument along with the rest of the medical evidence.

1 where two or more opinions are equally well-supported and consistent with the
2 record. *Id.*

3 Supportability and consistency are further explained in the regulations:

4 (1) Supportability. The more relevant the objective medical
5 evidence and supporting explanations presented by a
6 medical source are to support his or her medical opinion(s)
7 or prior administrative medical finding(s), the more
8 persuasive the medical opinions or prior administrative
9 medical finding(s) will be.

10 (2) Consistency. The more consistent a medical opinion(s) or
11 prior administrative medical finding(s) is with the
12 evidence from other medical sources and nonmedical
13 sources in the claim, the more persuasive the medical
14 opinion(s) or prior administrative medical finding(s) will
15 be.

16 20 C.F.R. §§ 404.1520c(c), 416.920c(c).

17 ***a. Dr. Philip Barnard***

18 Plaintiff attended a consultative psychological exam with Dr. Philip Barnard
19 in March 2018. Tr. 504-08. Dr. Barnard diagnosed generalized anxiety disorder,
20 bipolar disorder, and ADHD. Tr. 506. He opined Plaintiff was markedly limited in
21 her ability to perform within a schedule, maintain regular attendance, be punctual,
22 adapt to change, communicate and perform effectively, maintain appropriate
23 behavior, and complete a regular workday or work week without interruptions
24 from psychologically-based symptoms. *Id.*

25 The ALJ found this opinion was not persuasive, noting Dr. Barnard
26 conducted only a cursory exam and offered little explanation for the assessed
27 limitations. Tr. 25. The ALJ further found the marked limits were unsupported by
28 the unremarkable exam findings, were internally inconsistent with Dr. Barnard's
finding that Plaintiff's symptoms would only cause moderate limitations, and were

1 inconsistent with the longitudinal medical record showing unremarkable mental
2 status findings and improvement with medication and therapy. *Id.*

3 Plaintiff argues the ALJ’s discussion was flawed, as Dr. Barnard conducted
4 more than a cursory exam and documented abnormal findings that supported the
5 limitations. ECF No. 18 at 12-13. Plaintiff additionally asserts the opinion is
6 consistent with the treatment records showing Plaintiff’s ongoing depression,
7 anxiety, self-harm, and anger issues. *Id.* at 13-14. Defendant argues the ALJ
8 considered the factors of supportability and consistency and reasonably interpreted
9 the records as unresponsive of the marked limits assessed by Dr. Barnard. ECF No.
10 19 at 16-17.

11 The Court finds the ALJ did not err. With respect to supportability, the ALJ
12 reasonably considered the objective evidence and supporting explanations
13 provided by Dr. Barnard. Dr. Barnard’s opinion contains little explanation for the
14 limitations assessed and the ALJ reasonably noted the largely normal mental status
15 exam findings. Tr. 506-08. As discussed above, the ALJ’s interpretation of the
16 treatment records as showing mostly normal mental status findings, along with
17 Plaintiff’s reports of doing well, was supported by substantial evidence and the
18 ALJ reasonably found the record to be inconsistent with the marked limitations
19 assessed by Dr. Barnard. While Plaintiff offers an alternative interpretation of the
20 record, “when the evidence is susceptible to more than one rational interpretation,
21 we must uphold the ALJ’s findings if they are supported by inferences reasonably
22 drawn from the record.” *Molina v. Astrue*, 674 F.3d 1104, 1111 (9th Cir. 2012).
23 The Court finds the ALJ did not err in his assessment of Dr. Barnard’s opinion.

24 ***b. Dr. Diana Cook***

25 Plaintiff attended another consultative psychological exam in July 2018 with
26 Dr. Diana Cook. Tr. 514-18. Dr. Cook noted diagnoses of bipolar disorder (per the
27 claimant) and anxiety/depression, noting depression was well controlled by
28 medication and generally concluding that Plaintiff’s “psychological symptoms

1 seem to be quite treatable with moderate prognosis.” Tr. 517. Dr. Cook opined
2 Plaintiff would not have difficulty with most areas of work-related functioning, but
3 stated that she would have difficulty interacting with coworkers and maintaining
4 regular attendance. Tr. 518.

5 The ALJ found this opinion to be persuasive, noting it was supported by
6 Plaintiff’s statements during the interview and was consistent with the longitudinal
7 medical record, but noting that the record did not demonstrate a deterioration in
8 Plaintiff’s mental functioning that would prevent her from maintaining regular
9 work attendance if she was performing a low stress job. Tr. 25.

10 Plaintiff argues in her Motion for Summary Judgment that the opinion
11 should not have been found as persuasive as the ALJ found it to be because of
12 Plaintiff’s testimony that she did not actually meet with Dr. Cook and instead met
13 with an intern. ECF No. 18 at 14. In her reply brief she argues that the ALJ
14 improperly failed to incorporate the opinion regarding Plaintiff’s inability to
15 maintain regular attendance. ECF No. 20 at 7. Defendant argues there is no
16 evidence that Dr. Cook did not conduct the interview, and that it would not matter
17 even if the exam had been performed by someone else. ECF No. 19 at 17-18.
18 Defendant further asserts that there was no harm in the ALJ’s exclusion of
19 attendance problems from the RFC as Dr. Cook did not assess a concrete
20 limitation, and ALJs are not required to accept vague opinions. *Id.* at 18.

21 The Court finds the ALJ did not err. While Plaintiff testified at the hearing
22 that she did not meet with Dr. Cook and instead met with an intern,³ the opinion is
23 signed by Dr. Cook and contains no indication that someone else performed the
24 exam. Tr. 518. It is therefore reasonable for the ALJ to have considered this to be
25 Dr. Cook’s opinion.

26
27 ³ Notably, Plaintiff stated that she met with “his intern” (“his” referring to
28 Dr. Cook), when Dr. Cook is a woman. Tr. 56.

1 Regarding the ALJ’s exclusion of the statement that Plaintiff would have
2 difficulty with maintaining regular attendance, the Court finds any error in the
3 ALJ’s analysis to be harmless, as Dr. Cook did not quantify the difficulty or assess
4 any specific functional limitations. The revised rules for assessing medical
5 opinions make clear that a medical opinion is a statement about what a claimant
6 can still do despite their impairments and whether they have limitations or
7 restrictions in their ability to perform work-related tasks. 20 C.F.R.
8 § 404.1513(a)(2). The Court finds the ALJ did not harmfully err in finding this
9 portion of Dr. Cook’s report to not be persuasive.

10 ***c. State Agency Doctors***

11 Plaintiff argues the ALJ erred in failing to account for various moderate
12 limitations the state agency doctors noted in their initial and reconsideration
13 decisions. ECF No. 18 at 17-18.

14 The Court finds no error. The forms completed by Dr. Covell and Dr.
15 Robinson contained ratings in various categories, then requested the doctor
16 “Explain in narrative form” the degree of specific capacities or limitations. Tr. 82-
17 83, 113-14. These narrative portions specify the actual functional limitations the
18 doctors found stemmed from the various moderate limitations assessed. The ALJ
19 accounted for all concrete limitations offered.

20 ***d. Tri Cities Community Health***

21 Plaintiff asserts the ALJ erred in failing to include a persuasion analysis of
22 the mental health records from Tri Cities Community Health, despite the lengthy
23 and involved treatment relationship. ECF No. 18 at 14. However, Plaintiff fails to
24 identify any specific functional limitations set forth by the treating sources in these
25 records, and indeed acknowledges that the records do not explicitly set out
26 limitations. *Id.* Therefore, the ALJ was not required to offer any specific analysis
27 of how persuasive he found these treatment records to be.

1 **4. RFC and Step Five**

2 Plaintiff argues that the job findings are insufficient, as the RFC and the
3 hypothetical posed to the vocational expert failed to account for all of Plaintiff's
4 limitations. ECF No. 18 at 15-19. Plaintiff's argument is based on successfully
5 showing that the ALJ erred in his treatment of the evidence. *Id.* Because the Court
6 finds that the ALJ did not harmfully err, Plaintiff's argument is without merit.

7 **CONCLUSION**

8 Having reviewed the record and the ALJ's findings, the Court finds the
9 ALJ's decision is supported by substantial evidence and free of legal error and is
10 affirmed. Therefore, **IT IS HEREBY ORDERED:**

11 1. Defendant's Motion for Summary Judgment, **ECF No. 19**, is
12 **GRANTED.**

13 2. Plaintiff's Motion for Summary Judgment, **ECF No. 18**, is **DENIED.**

14 The District Court Executive is directed to file this Order and provide a copy
15 to counsel for Plaintiff and Defendant. Judgment shall be entered for Defendant
16 and the file shall be **CLOSED.**

17 DATED March 30, 2022.



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JAMES A. GOEKE
UNITED STATES MAGISTRATE JUDGE