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3 UNITED STATES DISTRICT COURT  
4 WESTERN DISTRICT OF WASHINGTON  
5 AT TACOMA

6 CHRISTOPHER M. WOOD,

7 Plaintiff,

8 v.

9 NANCY A. BERRYHILL, Acting  
10 Commissioner of Social Security,<sup>1</sup>

11 Defendant.

Case No. 2:16-cv-01163-RBL

ORDER AFFIRMING DEFENDANT'S  
DECISION TO DENY BENEFITS

12 THIS MATTER is before the Court on Plaintiff Wood's Complaint [Dkt. 3] for review of  
13 the Social Security Commissioner's denial of his applications for disability insurance and  
14 supplemental security income benefits.  
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16 Wood suffers from affective disorder, post-traumatic stress disorder, and obesity. *See*  
17 Dkt. 7, Administrative Record 333. He applied for disability insurance and SSI benefits in June  
18 2010, alleging he became disabled beginning in September 2009. *See* AR 330. Those  
19 applications were denied upon initial administrative review and on reconsideration. *See id.* A  
20 hearing was held before Administrative Law Judge M.J. Adams, and the ALJ issued an  
21 unfavorable decision in December 2012. *See id.* Wood appealed, and this Court remanded the  
22 case for further proceedings. *See id.* The ALJ held a second hearing in August 2015. *See id.*  
23 Wood, represented by counsel, appeared and testified, as did a vocational expert. *See* AR 351-70.  
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26 <sup>1</sup> Nancy A. Berryhill is now the Acting Commissioner of the Social Security Administration. Pursuant to Federal Rule of Civil Procedure 25(d), Nancy A. Berryhill is substituted for Carolyn W. Colvin as Defendant in this suit. The Clerk is directed to update the docket, and all future filings by the parties should reflect this change.

1 The ALJ determined Wood to be not disabled. *See* AR 327-50. The Appeals Council  
2 denied Wood’s request for review, making the ALJ’s decision the final decision of the  
3 Commissioner of Social Security. *See* AR 320-26; 20 C.F.R. §§ 404.981, 416.1481. In August  
4 2016, Wood filed a complaint in this Court seeking judicial review of the Commissioner’s final  
5 decision. *See* Dkt. 3.

6 Wood argues that the Commissioner’s decision to deny benefits should be reversed and  
7 remanded for an award of benefits or for further administrative proceedings because the ALJ  
8 erred: (1) in evaluating the medical evidence; (2) in evaluating Wood’s testimony; and (3) in  
9 assessing Wood’s residual functional capacity and finding him capable of performing past  
10 relevant work.

11 The Commissioner argues that the ALJ did not err in evaluating the medical evidence or  
12 Wood’s testimony, so the ALJ’s RFC and step-four finding that Wood could perform past work  
13 were supported by substantial evidence and should be affirmed.  
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## 16 DISCUSSION

17 The Commissioner’s determination that a claimant is not disabled must be upheld by the  
18 Court if the Commissioner applied the “proper legal standards” and if “substantial evidence in  
19 the record as a whole supports” that determination. *See Hoffman v. Heckler*, 785 F.2d 1423, 1425  
20 (9th Cir. 1986); *see also Batson v. Comm’r, Soc. Sec. Admin.*, 359 F.3d 1190, 1193 (9th Cir.  
21 2004); *Carr v. Sullivan*, 772 F.Supp. 522, 525 (E.D. Wash. 1991) (“A decision supported by  
22 substantial evidence will, nevertheless, be set aside if the proper legal standards were not applied  
23 in weighing the evidence and making the decision.”) (citing *Brawner v. Sec’y of Health and*  
24 *Human Services*, 839 F.2d 432, 433 (9th Cir. 1987)).  
25

26 Substantial evidence is “such relevant evidence as a reasonable mind might accept as

1 adequate to support a conclusion.” *Richardson v. Perales*, 402 U.S. 389, 401 (1971) (citation  
2 omitted); *see also Batson*, 359 F.3d at 1193 (“[T]he Commissioner’s findings are upheld if  
3 supported by inferences reasonably drawn from the record.”). “The substantial evidence test  
4 requires that the reviewing court determine” whether the Commissioner’s decision is “supported  
5 by more than a scintilla of evidence, although less than a preponderance of the evidence is  
6 required.” *Sorenson v. Weinberger*, 514 F.2d 1112, 1119 n.10 (9th Cir. 1975). “If the evidence  
7 admits of more than one rational interpretation,” the Commissioner’s decision must be upheld.  
8 *Allen v. Heckler*, 749 F.2d 577, 579 (9th Cir. 1984) (“Where there is conflicting evidence  
9 sufficient to support either outcome, we must affirm the decision actually made.”) (quoting  
10 *Rhinehart v. Finch*, 438 F.2d 920, 921 (9th Cir. 1971)).<sup>2</sup>

#### 12 **I. The Medical Evidence in the Record**

13 The ALJ determines credibility and resolves ambiguities and conflicts in the medical  
14 evidence. *See Reddick v. Chater*, 157 F.3d 715, 722 (9th Cir. 1998). Where the medical evidence  
15 in the record is not conclusive, “questions of credibility and resolution of conflicts” are solely the  
16 functions of the ALJ. *Sample v. Schweiker*, 694 F.2d 639, 642 (9th Cir. 1982). In such cases, “the  
17 ALJ’s conclusion must be upheld.” *Morgan v. Comm’r, Soc. Sec. Admin.*, 169 F.3d 595, 601 (9th  
18 Cir. 1999). Determining whether inconsistencies in the medical evidence “are material (or are in  
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22 <sup>2</sup> As the Ninth Circuit has further explained:

23 . . . It is immaterial that the evidence in a case would permit a different conclusion than that  
24 which the [Commissioner] reached. If the [Commissioner]’s findings are supported by  
25 substantial evidence, the courts are required to accept them. It is the function of the  
26 [Commissioner], and not the courts to resolve conflicts in the evidence. While the court may  
not try the case de novo, neither may it abdicate its traditional function of review. It must  
scrutinize the record as a whole to determine whether the [Commissioner]’s conclusions are  
rational. If they are . . . they must be upheld.

*Sorenson*, 514 F.2d at 1119 n.10.

1 fact inconsistencies at all) and whether certain factors are relevant to discount” the opinions of  
2 medical experts “falls within this responsibility.” *Id.* at 603.

3 In resolving questions of credibility and conflicts in the evidence, an ALJ’s findings  
4 “must be supported by specific, cogent reasons.” *Reddick*, 157 F.3d at 725. The ALJ can do this  
5 “by setting out a detailed and thorough summary of the facts and conflicting clinical evidence,  
6 stating his interpretation thereof, and making findings.” *Id.* The ALJ also may draw inferences  
7 “logically flowing from the evidence.” *Sample*, 694 F.2d at 642. Further, the Court may draw  
8 “specific and legitimate inferences from the ALJ’s opinion.” *Magallanes v. Bowen*, 881 F.2d  
9 747, 755 (9th Cir. 1989). A physician’s opinion “can only be rejected for specific and legitimate  
10 reasons that are supported by substantial evidence in the record.” *Lester v. Chater*, 81 F.3d 821,  
11 830-31 (9th Cir. 1996).

13 Wood argues that the ALJ erred by failing to give specific and legitimate reasons  
14 supported by substantial evidence to discount the opinions of examining psychologists Cassandra  
15 Clark, Ph.D., Sylvia Thorpe, Ph.D., and Carl Epp, Ph.D. *See* Dkt. 9 at 15-19.<sup>3</sup> The Court  
16 disagrees.

18 Drs. Clark, Thorpe, and Epp examined Wood and opined that he had marked to severe  
19 limitations in cognitive and social functioning. *See* AR 255, 301, 308, 646-47. The ALJ gave  
20 these opinions little weight because, among other reasons, Wood’s presentation at these  
21 evaluations was “markedly different” than his presentation at his appointments with his regular  
22 treatment providers. *See* AR 339-40.

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26 <sup>3</sup> Plaintiff’s opening brief exceeds the page limit established in the scheduling order. *See* Dkt. 8. In accordance with  
Local Civil Rule 7(e)(6), the Court will not consider text that is not included within the page limit.

1 An ALJ need not accept a physician’s opinion if that opinion is inadequately supported  
2 by clinical findings or “by the record as a whole.” *See Batson*, 359 F.3d at 1195. Here, Wood’s  
3 treatment providers reported that he generally appeared at appointments with appropriate  
4 appearance and behavior, normal affect and mood, organized thought form and content, good  
5 judgment, intact orientation and fund of knowledge, good concentration, and intact long- and  
6 short-term memory. *See, e.g.*, AR 213-14, 657, 768, 799-800, 820. These clinical findings are  
7 inconsistent with the examining psychologists’ opinions that Wood was, for example, markedly  
8 impaired in exercising judgment or severely impaired in maintaining appropriate behavior. *See*  
9 AR 308, 647. Therefore, the ALJ provided a specific and legitimate reason supported by  
10 substantial evidence to discount the extremity of the limitations to which the examining  
11 psychologists opined.  
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## 13 **II. Wood’s Testimony**

14 Wood argues that the ALJ erred by failing to give a clear and convincing reason  
15 supported by substantial evidence to discount Wood’s testimony. *See Dkt. 9* at 6-15. The Court  
16 disagrees.  
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18 Questions of credibility are solely within the responsibility of the ALJ. *See Sample*, 694  
19 F.2d at 642. The Court should not “second-guess” this credibility determination. *Allen*, 749 F.2d  
20 at 580. In addition, the Court may not reverse a credibility determination where that  
21 determination is based on contradictory or ambiguous evidence. *See id.* at 579. That some of the  
22 reasons for discrediting a claimant’s testimony should properly be discounted does not render the  
23 ALJ’s determination invalid, as long as that determination is supported by substantial evidence.  
24 *Tonapetyan v. Halter*, 242 F.3d 1144, 1148 (9th Cir. 2001).  
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1 To reject a claimant’s subjective complaints, the ALJ must provide “specific, cogent  
2 reasons for the disbelief.” *Lester*, 81 F.3d at 834 (citation omitted). The ALJ “must identify what  
3 testimony is not credible and what evidence undermines the claimant’s complaints.” *Id.*; *see also*  
4 *Dodrill v. Shalala*, 12 F.3d 915, 918 (9th Cir. 1993). Unless affirmative evidence shows the  
5 claimant is malingering, the ALJ’s reasons for rejecting the claimant’s testimony must be “clear  
6 and convincing.” *Lester*, 81 F.2d at 834.

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8 Here, the ALJ found Wood’s testimony not to be fully credible for several reasons,  
9 including that his testimony was inconsistent with his reported activities. *See* AR 339. An ALJ  
10 may discount a claimant’s testimony when a claimant’s activities of daily living “contradict his  
11 other testimony.” *See Orn v. Astrue*, 495 F.3d 625, 639 (9th Cir. 2007). Here, Wood alleged that,  
12 due to paranoia and panic resulting from his mental impairments, he was afraid to leave his  
13 trailer and had difficulty being around others or focusing on tasks. *See* AR 37, 362-63. However,  
14 elsewhere in the record, Wood stated that his activities included regular household maintenance,  
15 walks around the neighborhood, reading, taking care of his personal needs without assistance,  
16 and “couch surfing” between his friends’ homes. *See* AR 190, 265, 300. The ALJ found that  
17 those activities suggested Wood was capable of at least a moderate level of cognitive and social  
18 functioning. *See* AR 339. Substantial evidence supports the ALJ’s finding that the extremity of  
19 Wood’s statements concerning the intensity, persistence, and limiting effects of his symptoms  
20 could be discounted for this reason.

### 21 22 23 **III. The RFC Assessment and Step-Four Finding**

24 Wood argues that the RFC assessed and the ALJ’s resulting step-four finding are not  
25 supported by substantial evidence due to the errors alleged above. *See* Dkt. 9 at 3-4. However,  
26 because the Court finds that the ALJ committed no harmful error in evaluating the medical

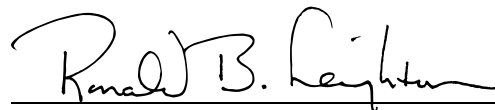
1 evidence or Wood's testimony, the RFC and step-four finding are supported by substantial  
2 evidence and not in error. *See supra* §§ I, II.

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4 **CONCLUSION**

5 Based on the foregoing discussion, the Court hereby finds that the ALJ properly  
6 concluded Wood was not disabled. Accordingly, the Commissioner's decision to deny benefits is  
7 **AFFIRMED.**  
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9 DATED this 16<sup>th</sup> day of February, 2017.

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14 Ronald B. Leighton  
15 United States District Judge  
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