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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DEIRDRE L. CLARK,

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner of
Social Security Administration,

Defendant.

Case No. C09-5342 FDB

ORDER ADOPTING REPORT AND
RECOMMENDATION AFFIRMING
ADMINISTRATIVE DECISION

The Magistrate Judge recommends that the Court should conclude that Deirdre L. Clark was properly denied social security benefits because application of the proper legal standard and substantial evidence support the Administrative Law Judge's (ALJ) finding that Plaintiff is not disabled. Plaintiff has filed an objection to the Report and Recommendation and the Commissioner of Social Security filed a response.

Plaintiff objects to the finding of the Report and Recommendation that the evidence is susceptible to more than one interpretation, such that the ALJ's decision should be affirmed. Plaintiff contends the ALJ's findings are unsupported by substantial evidence and contrary to law.

The Court disagrees with Plaintiff's objections and adopts the Report and Recommendation. As detailed in the Report and Recommendation, the ALJ properly evaluated and considered the evidence. Although the evidence may have been subject to a different interpretation, the ALJ's

1 opinion is premised on a rational interpretation of the evidence and must be upheld. See Thomas v.
2 Barnhart, 278 F.3d 947, 954 (9th Cir. 2002).

3 The Report and Recommendation concluded that the ALJ properly assessed the lay witness
4 testimony. Contrary to Plaintiff's objections, this conclusion is supported by the record.

5 The Magistrate Judge found the ALJ properly evaluated Plaintiff's residual functional
6 capacity. This determination was derived by application of the proper legal standards and
7 supported by substantial medical evidence.

8 Finally, substantial evidence supports the ALJ's determination that Plaintiff retained the
9 ability to work as a small products assembler, parking lot cashier or sorter/recycler. The
10 hypothetical posed to the vocational expert properly reflected the medical evidence and the residual
11 functional capacity of Plaintiff.


12 Based on the foregoing, the Court adopts the Report and Recommendation of Magistrate
13 Judge J. Richard Creatura.

14 The Court, having reviewed Plaintiff's complaint, the Report and Recommendation of Judge
15 J. Richard Creatura, United States Magistrate Judge, and the remaining record, does hereby find and

16 ORDER:

- 17 (1) The Court adopts the Report and Recommendation;
18 (2) The administrative decision is **AFFIRMED**; and
19 (3) The Clerk is directed to send copies of this Order to Plaintiff's counsel, Defendant's
20 counsel and Magistrate Judge J. Richard Creatura.

21
22 DATED this 8th day of March, 2010.

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25 FRANKLIN D. BURGESS
26 UNITED STATES DISTRICT JUDGE