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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JESSIE LEE SNYDER,

Plaintiff,

v.

NANCY A. BERRYHILL, Acting
Commissioner of Social Security,

Defendants.

Case No. 3:16-cv-6033-TLF

ORDER AFFIRMING
DEFENDANT’S DECISION TO
DENY BENEFITS

Jessie Lee Snyder has brought this matter for judicial review of the Commissioner’s denial of her application for supplemental security income (SSI) benefits. The parties have consented to have this matter heard by the undersigned Magistrate Judge. 28 U.S.C. § 636(c), Federal Rule of Civil Procedure 73; Local Rule MJR 13. For the reasons set forth below, the Court affirms the Commissioner’s decision denying benefits.

FACTUAL AND PROCEDURAL HISTORY

On June 18, 2013, Ms. Snyder filed an application for SSI benefits, alleging that she became disabled beginning March 1, 2006. Dkt. 11, Administrative Record (AR) 15. That application was denied on initial administrative review and on reconsideration. *Id.* A hearing was

1 held on March 3, 2015, before an administrative law judge (ALJ).¹ AR 34-62. Ms. Snyder
2 appeared and testified, as did a vocational expert. *Id.*

3 In a written decision on April 3, 2015, the ALJ found that Ms. Snyder could perform jobs
4 existing in significant numbers in the national economy and therefore was not disabled. AR 15-
5 28. The Appeals Council denied Ms. Snyder's request for review on October 21, 2016, making
6 the ALJ's decision the final decision of the Commissioner. AR 15; 20 C.F.R. § 416.1481. Ms.
7 Snyder appealed that decision in a complaint filed with this Court on December 19, 2016. Dkt. 1.

8 Ms. Snyder seeks reversal of the ALJ's decision and remand for further administrative
9 proceedings, arguing the ALJ erred in evaluating the medical evidence. For the reasons set forth
10 below, however, the Court affirms the decision to deny benefits.

11 DISCUSSION

12 The Commissioner employs a five-step "sequential evaluation process" to determine
13 whether a claimant is disabled. 20 C.F.R. § 416.920. If the ALJ finds the claimant disabled or not
14 disabled at any particular step, the ALJ makes the disability determination at that step and the
15 sequential evaluation process ends. *See id.* At issue here is the ALJ's evaluation of the medical
16 opinion evidence in assessing Ms. Snyder's residual functional capacity (RFC) to work.

17 This Court affirms an ALJ's determination that a claimant is not disabled if the ALJ
18 applied "proper legal standards" in weighing the evidence and making the determination and if
19 "substantial evidence in the record as a whole supports" that determination. *Hoffman v. Heckler*,
20 785 F.2d 1423, 1425 (9th Cir. 1986). Substantial evidence is "such relevant evidence as a
21 reasonable mind might accept as adequate to support a conclusion." *Trevizo v. Berryhill*, No.

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23 ¹ Ms. Snyder also filed an application for disability insurance benefits on June 17, 2013. AR 15. Like her SSI
24 application, that claim was denied initially and on reconsideration. *Id.* However, Ms. Snyder voluntarily withdrew
25 her claim for disability insurance benefits at the March 2015 hearing. *Id.*

1 15-16277, — F.3d —, 2017 WL 2925434, at *7 (9th Cir. July 10, 2017) (quoting
2 *Desrosiers v. Sec'y of Health & Human Servs.*, 846 F.2d 573, 576 (9th Cir. 1988)). This requires
3 “more than a mere scintilla,” though “less than a preponderance” of the evidence. *Id.* (quoting
4 *Desrosiers*, 846 F.2d at 576).

5 This Court will thus uphold the ALJ’s findings if “inferences reasonably drawn from the
6 record” support them. *Batson v. Comm'r of Soc. Sec. Admin.*, 359 F.3d 1190, 1193 (9th Cir.
7 2004). If more than one rational interpretation can be drawn from the evidence, then this Court
8 must uphold the ALJ’s interpretation. *Allen v. Heckler*, 749 F.2d 577, 579 (9th Cir. 1984).

9 I. The ALJ’s Evaluation of the Medical Opinion Evidence

10 The ALJ is responsible for determining credibility and resolving ambiguities and
11 conflicts in the medical evidence. *Reddick v. Chater*, 157 F.3d 715, 722 (9th Cir. 1998). Where
12 the evidence is inconclusive, “questions of credibility and resolution of conflicts are functions
13 solely of the [ALJ].” *Sample v. Schweiker*, 694 F.2d 639, 642 (9th Cir. 1982) (quoting *Waters v.*
14 *Gardner*, 452 F.2d 855, 858 n. 7 (9th Cir. 1971)). In such situations, “the ALJ’s conclusion must
15 be upheld.” *Morgan v. Comm’r of the Soc. Sec. Admin.*, 169 F.3d 595, 601 (9th Cir. 1999).
16 Determining whether inconsistencies in the evidence “are material (or are in fact inconsistencies
17 at all) and whether certain factors are relevant to discount” medical opinions “falls within this
18 responsibility.” *Id.* at 603.

19 In resolving questions of credibility and conflicts in the evidence, an ALJ’s findings
20 “must be supported by specific, cogent reasons.” *Reddick*, 157 F.3d at 725. The ALJ can support
21 his findings “by setting out a detailed and thorough summary of the facts and conflicting clinical
22 evidence, stating his interpretation thereof, and making findings.” *Id.* The ALJ also may draw
23 inferences “logically flowing from the evidence.” *Sample*, 694 F.2d at 642. Further, the Court
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1 itself may draw “specific and legitimate inferences from the ALJ’s opinion.” *Magallanes v.*
2 *Bowen*, 881 F.2d 747, 755 (9th Cir. 1989).

3 The ALJ must provide “clear and convincing” reasons for rejecting the uncontradicted
4 opinion of either a treating or examining physician. *Trevizo*, 2017 WL 2925434, at *7. When
5 other evidence contradicts the treating or examining physician’s opinion, the ALJ must still
6 provide “specific and legitimate reasons,” supported by substantial evidence, to reject that
7 opinion. *Id.* However, the ALJ “need not discuss *all* evidence presented” to him or her. *Vincent*
8 *on Behalf of Vincent v. Heckler*, 739 F.2d 1393, 1394-95 (9th Cir. 1984) (citation omitted)
9 (emphasis in original). The ALJ must only explain why “significant probative evidence has been
10 rejected.” *Id.*; *see also Cotter v. Harris*, 642 F.2d 700, 706-07 (3rd Cir. 1981); *Garfield v.*
11 *Schweiker*, 732 F.2d 605, 610 (7th Cir. 1984).

12 In general, more weight is given to a treating physician’s opinion than to the opinions of
13 those who do not treat the claimant. *See Lester v. Chater*, 81 F.3d 821, 830 (9th Cir. 1995). On
14 the other hand, an ALJ need not accept the opinion of a treating physician, “if that opinion is
15 brief, conclusory, and inadequately supported by clinical findings” or “by the record as a whole.”
16 *Batson*, 359 F.3d at 1195; *see also Thomas v. Barnhart*, 278 F.3d 947, 957 (9th Cir. 2002);
17 *Tonapetyan v. Halter*, 242 F.3d 1144, 1149 (9th Cir. 2001). An examining physician’s opinion is
18 “entitled to greater weight than the opinion of a nonexamining physician.” *Lester*, 81 F.3d at
19 830-31. A non-examining physician’s opinion may constitute substantial evidence if “it is
20 consistent with other independent evidence in the record.” *Id.* at 830-31; *Tonapetyan*, 242 F.3d at
21 1149.

22 Dr. Alysa Ruddell evaluated Ms. Snyder in July 2014. On the form Dr. Ruddell filled in,
23 under “[r]ecords reviewed,” she wrote: “No records were available for perusal. Information in
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1 this evaluation represents client report.” AR 319. She performed a mental status exam (MSE), in
2 which she checked boxes indicating that Ms. Snyder had a labile/tearful affect, anxious mood,
3 paranoid content of thought, impaired recent and immediate memory, impaired concentration,
4 impaired abstract thinking, and an impaired fund of knowledge. AR 322. Dr. Ruddell observed
5 that Ms. Snyder’s attitude and behavior, social indicators (eye contact and interactivity), stream
6 of mental activity, and speech were all normal. *Id.* In the section for notes under the check boxes,
7 Dr. Ruddell wrote that when asked about paranoia, Ms. Snyder “did not related [sic] symptoms
8 of paranoia.” *Id.* Dr. Ruddell further noted, “[i]t does not appear learning impairments are a
9 factor.” *Id.* And she observed that while Ms. Snyder’s response to questions yielded “an
10 abnormal MSE” for memory, “[a]lternatively, it raises concerns about effort.” *Id.*

11 Dr. Ruddell diagnosed Ms. Snyder with anxiety disorder and somatic symptom disorder
12 with persistent pain. AR 320.² She opined that Ms. Snyder is markedly limited in her ability to
13 understand, remember, and persist in detailed tasks, learn new tasks, adapt to changes in a
14 routine work setting, complete a workday or work week without interruptions from
15 psychological symptoms, and set realistic goals and plan independently. AR 321.

16 The ALJ gave these opinions “little weight.” AR 26. He explained that they were
17 “inconsistent with the record as a whole and appear to be largely based upon the claimant’s self-
18 report of symptoms, which are exaggerated compared to her reports to her primary care provider,
19 her gastrointestinal specialist, and her case manager at Greater Lakes.” *Id.* Earlier in his decision,
20 the ALJ found that Ms. Snyder’s statements about the severity of her symptoms were not

23 ² Dr. Ruddell also assessed Ms. Snyder with a current Global Assessment of Functioning (GAF) score of 45,
24 suggesting serious symptoms or limitations. The ALJ accorded that score “no weight,” and Ms. Snyder does not
25 challenge that determination. AR 26; see Dkt. 13, pp. 2-5.

1 credible because the record showed she made “[i]nconsistent statements” and reported
2 “exaggerated symptoms.” AR 24-25.

3 Dr. Ruddell was an examining physician, and her opinion was not contradicted by others
4 in the record. *See* 20 CFR 416.927(c)(1). The ALJ was therefore required to give clear and
5 convincing reasons to reject Dr. Ruddell’s opinion, and the record must support those reasons.
6 *Bayliss v. Barnhart*, 427 F.3d 1211, 1216 (9th Cir. 2005). The Court finds that the ALJ did not
7 err in discounting Dr. Ruddell’s opinion, as both of the reasons the ALJ offered were clear and
8 convincing and the record supports them.

9 First, the record supports the ALJ’s finding that the marked limitations Dr. Ruddell
10 assessed were “inconsistent with the record as a whole.” The ALJ discussed several
11 inconsistencies between Ms. Snyder’s medical record and the symptoms she reported, which are
12 similar to the symptoms Dr. Ruddell observed. AR 23-25. For example, although Dr. Ruddell
13 described Ms. Snyder as irritable, challenging, and withdrawn, Ms. Snyder’s treatment notes
14 throughout her visits to Greater Lakes Mental Healthcare describe her as pleasant, cooperative,
15 forthcoming, and goal directed, with a bright affect. AR 23, 337-46. Although Ms. Snyder
16 testified at trial to experiencing three to four panic attacks per week and told Dr. Ruddell that she
17 was afraid “of everybody” and that depression and anxiety bothered her every day, she did not
18 report such severe symptoms in her regular visits to Greater Lakes. AR 47, 322-23, 337-46. She
19 told a doctor at Tacoma General Hospital that she had “occasional” panics. AR 451. Such a lack
20 of reported symptoms in medical visits can provide a clear and convincing reason to discount a
21 claimant’s testimony. *See Greger v. Barnhart*, 464 F.3d 968, 972 (9th Cir. 2006).

22 Although Ms. Snyder points to diagnoses of depression from Dr. Natalie Nunes, Dr.
23 Nunes made no abnormal findings in the objective portions of her exams and apparently relied
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1 entirely on Ms. Snyder’s subjective reports of tension or stress, anxiety, depression, and various
2 sleep troubles. *See* AR 435-36, 461. And while Ms. Snyder also cites disability reviewer Dr.
3 Sorino Rhone’s note of “mild depression,” that was part of Dr. Rhone’s systems review, which
4 focuses on the patient’s self-reported symptoms; Dr. Rhone did not diagnose depression. AR
5 299-300. As discussed below, the ALJ determined that Ms. Snyder’s reports of her mental-health
6 symptoms were not entirely reliable and Ms. Snyder does not challenge that finding.³

7 Dr. Ruddell’s opinions are also inconsistent with her own observations. Although Dr.
8 Ruddell’s findings in the MSE support her opinions, her own notes undercut or directly
9 contradict those findings. AR 322-23. For example, Dr. Ruddell’s note that Ms. Snyder did not
10 describe symptoms of paranoia contradicts her finding of paranoia in the MSE. AR 322.
11 Likewise, her note that she did not observe any impairments to learning directly contradicts her
12 opinion that Ms. Snyder’s ability to learn new tasks is markedly limited. AR 322-23. And her
13 note that Ms. Snyder’s response to her memory exam questions “raises concerns about effort”
14 undermines her finding that Ms. Snyder has impaired memory. AR 322. In addition, Dr.
15 Ruddell’s observations that Ms. Snyder’s attitude and behavior, social indicators, stream of
16 mental activity, and speech were all normal appear inconsistent with her opinion that Ms. Snyder
17 has marked limitations in understanding, remembering, or persisting in a detailed task and in
18 adapting to changes in her work setting. AR 321-22.

19 This court must “review the ALJ’s decision based on the reasoning and actual findings
20 offered by the ALJ.” *Bray v. Comm’r of SSA*, 554 F.3d 1219, 1225–26 (9th Cir. 2009). Although

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22 ³ Treatment notes at Greater Lakes support the ALJ’s inference that Ms. Snyder was “motivated by secondary gain
23 and not by the severity of her alleged symptoms.” AR 24. Ms. Snyder’s progress notes include numerous notes
24 indicating Ms. Snyder was focused on proving disability and not on improving. *See, e.g.*, AR 339 (noting Ms.
25 Snyder’s comment, “I am happy being mad;” concluding “Client is seeking negative response from [staff
member]”), 341 (Ms. Snyder “resistant to talking positively about self”), 344 (Ms. Snyder “very resistant to
change”).

1 the ALJ did not cite the contradictions within Dr. Ruddell’s evaluation, the Court must consider
2 the record as a whole in determining whether the record supports the ALJ’s conclusion that Dr.
3 Ruddell’s findings are inconsistent with that record. See AR 26; *Molina v. Astrue*, 674 F.3d
4 1104, 1120-21 (9th Cir. 2012). For the reasons discussed above, the Court finds that the record
5 supports that conclusion.

6 Second, the record also supports the ALJ’s findings that the marked limitations Dr.
7 Ruddell assessed were “largely based upon the claimant’s self-report of symptoms,” and that
8 those reports were inconsistent with her reports to other medical providers. See AR 26.

9 Ms. Snyder does not challenge the ALJ’s determination that her self-reported symptoms
10 were not credible. AR 23-25; *see* Dkt. 13, p. 4. She has thus waived any challenge to that
11 credibility finding. *See Kim v. Kang*, 154 F.3d 996, 1000 (9th Cir. 1998) (matters not specifically
12 and distinctly argued in opening brief ordinarily will not be considered).

13 Dr. Ruddell’s evaluation supports the ALJ’s inference that she based her opinions mainly
14 on Ms. Snyder’s self-reports. As noted above, Dr. Ruddell stated that she reviewed no records
15 and that “[i]nformation in this evaluation represents client report.” AR 319. Further, Dr. Ruddell
16 made few clinical observations that support the limitations she assessed. As discussed above,
17 many of the observations she did make contradicted the limitations she checked boxes for. The
18 evaluation shows that Dr. Ruddell instead relied on Ms. Snyder’s statements on a questionnaire
19 that anxiety, panic, and fear “bothered [her] a lot” and that “nearly every day” she hides to avoid
20 people and is too anxious or nervous to go out. See AR 323. As noted above, the severity of
21 those subjective claims is at odds with Ms. Snyder’s treatment record.

22 The record thus supports the ALJ’s determination that Dr. Ruddell relied on Ms. Snyder’s
23 subjective reports rather than Dr. Ruddell’s own clinical observations or those of other medical
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1 sources. *See Bayliss*, 427 F.3d at 1217 (“Dr. Manfield concluded that Bayliss suffered from
2 several mental conditions, but he based this assessment on Bayliss's complaints and information
3 submitted by her family, her friends, and a former counselor. He did not review objective
4 medical data or reports from treating physicians or counselors.”) (internal footnote omitted). The
5 ALJ gave two clear and convincing reasons to reject Dr. Ruddell’s opinion and did not err in
6 rejecting that opinion.

7 CONCLUSION

8 Based on the foregoing discussion, the Court finds the ALJ properly determined Ms.
9 Snyder to be not disabled. Defendant’s decision to deny benefits therefore is AFFIRMED.

10 Dated this 26th day of July, 2017.

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Theresa L. Fricke
14 United States Magistrate Judge
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