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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON

8 MARIA SOLEDAD TORRES,

9 Plaintiff,

10 v.

11 NANCY A. BERRYHILL, Deputy
12 Commissioner of Social Security for
13 Operations,

14 Defendant.

Case No. C17-5786-RSM

ORDER DISMISSING CASE

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16 The Court, after careful consideration of Plaintiff's Complaint, the parties' briefs, all
17 papers and exhibits filed in support and opposition thereto, the Report and Recommendation
18 ("R&R") of the Honorable James P. Donohue, the Objections and response thereto, and the
19 balance of the record, does hereby find and ORDER:

- 20 (1) The Court ADOPTS the Report and Recommendation as to the merits, but
21 clarifies the Court's conclusion as to the procedural posture of this case. Plaintiff
22 first objects to Judge Donohue's R&R on the basis that he applied the wrong legal
23 standard to Dr. Weiss's opinion. As the government points out, Plaintiff's
24 argument is inconsistent with the law. When an examining physician's opinion
25 is contradicted by the opinion of a non-examining state agency physician, an ALJ
26 need only provide "specific and legitimate" reasons for rejecting the examining

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1 physician's opinion. *See Widmark v. Barnhart*, 454 F.3d 1063, 1066-67 (9th Cir.
2 2006) *citing Lester v. Chater*, 81 F.3d 821, 830 (9th Cir. 1996). In this case, Dr.
3 Weiss's opinion was contradicted by that of the state agency psychologist. Tr.
4 77-79. Accordingly, Judge Donahue applied the correct legal standard in
5 assessing this case. Further, for the reasons explained by Judge Donohue, this
6 Court agrees that the ALJ provided multiple specific and legitimate reasons to
7 discount Dr. Weiss's opinion, and therefore Plaintiff failed to demonstrate that
8 the ALJ committed reversible error. Likewise, the Court finds that, for the
9 reasons set forth by Judge Donohue, the ALJ provided clear and convincing
10 reasons to discount Plaintiff's subjective testimony, and therefore the ALJ did not
11 commit reversible error in that respect.

12 (2) The final decision of the Commissioner is **AFFIRMED** and this case is dismissed
13 with prejudice. The Court clarified that this matter is not to be Reversed and
14 Remanded as Judge Donohue stated in the conclusion of his R&R. *See* Dkt. #15
15 at 14.

16 (3) The Clerk of the Court is directed to send copies of this Order to the parties and
17 to Judge Donohue.

18 DATED this 30th day of July, 2018.

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21 RICARDO S. MARTINEZ
22 CHIEF UNITED STATES DISTRICT JUDGE
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