UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Mark Hogue v. Commissioner of Social Security Administration

Hogue · No. CV-25-00102-PHX-DJH · Decided March 30, 2026

SUMMARY

The United States District Court for the District of Arizona reviewed the Commissioner of Social Security's denial of Mark Hogue's application for Title II disability benefits. The court upheld the ALJ's evaluation of Hogue's symptom testimony and the medical opinion of Dr. Gordon, concluding that the decision was supported by substantial evidence. The court affirmed the ALJ's August 21, 2023 decision and directed the Clerk to enter judgment and terminate the action.

CASE DETAILS

COURT	United States District Court for the District of Arizona
WRITING FOR THE COURT	Diane J. Humetewa
JURISDICTION	United States District Court for the District of Arizona
DECIDED	March 30, 2026
DOCKET	CV-25-00102-PHX-DJH
DISPOSITION	affirmed
PROCEDURAL POSTURE	Judicial review under 42 U.S.C. § 405(g) and § 1383(c)(3) of the Commissioner's final decision denying Title II disability benefits.
STANDARD OF REVIEW	The district court reviews only issues raised by the claimant and upholds the ALJ's decision unless it contains legal error or is unsupported by substantial evidence. Substantial evidence is more than a mere scintilla but less than a preponderance and is evidence a reasonable person might accept as adequate. The court considers the record as a whole and may not affirm by isolating a specific quantum of supporting evidence.
PRECEDENTIAL VALUE	unpublished and nonprecedential
PARTIES	Mark Hogue v. Commissioner of Social Security Administration

TOPICS

judicial review of agency action · agency adjudication · administrative law · disability definition

PRACTICE AREAS

Social Security disability | administrative law

QUESTIONS PRESENTED

1. Whether the ALJ gave legally sufficient, specific, clear, and convincing reasons for discounting Hogue's subjective symptom testimony.
2. Whether the ALJ properly evaluated the supportability and consistency of Dr. Gordon's medical opinion under 20 C.F.R. § 404.1520c.
3. Whether substantial evidence supported the ALJ's finding that Hogue was not disabled and could perform his past relevant work.

HOLDINGS

1. The ALJ sufficiently articulated specific, clear, and convincing reasons for finding that Hogue's statements concerning the intensity, persistence, and limiting effects of his symptoms were not entirely consistent with the medical and other evidence.
2. The ALJ properly evaluated the persuasiveness of Dr. Gordon's opinion by addressing the supportability and consistency factors and reasonably found portions of the opinion unpersuasive.
3. The ALJ's determination that Hogue was not disabled from January 27, 2021, through March 31, 2023, was supported by substantial evidence and was affirmed.

KEY QUOTATIONS

> *"An ALJ's disability determination should be upheld unless it contains legal error or is not supported by substantial evidence."* (at 6)

> *"This is not an easy requirement to meet: 'The clear and convincing standard is the most demanding required in Social Security cases.'"* (at 8)

FACTUAL BACKGROUND

Mark Hogue alleged disability beginning April 3, 2020, based principally on glenohumeral osteoarthritis and degenerative joint disease of the right shoulder. He had previously worked as a warehouse worker and forklift operator. The ALJ found that Hogue had severe right-shoulder impairments but retained the residual functional capacity for medium work with specified right-arm and postural limitations, including frequent reaching and pushing or pulling with the right arm. The ALJ concluded that Hogue could perform his past relevant work and was not disabled through his date last insured, March 31, 2023.

PROCEDURAL HISTORY

Plaintiff applied for disability insurance benefits, and the application was denied initially and on reconsideration. After a hearing, the ALJ issued an unfavorable decision on August 21, 2023. The Appeals Council denied review, making the ALJ's decision the Commissioner's final decision. Plaintiff then filed this action, and the district court affirmed.

DISPOSITION

affirmed

CASES CITED

- Tackett v. Apfel, 180 F.3d 1094, 1098 (9th Cir. 1999)
- Kennedy v. Colvin, 738 F.3d 1172, 1175 (9th Cir. 2013)
- Lewis v. Apfel, 236 F.3d 503, 517 n.13 (9th Cir. 2001)
- Garrison v. Colvin, 759 F.3d 995, 1009, 1014-15 (9th Cir. 2014)
- Stout v. Commissioner, Social Security Administration, 454 F.3d 1050, 1052 (9th Cir. 2006)
- Orn v. Astrue, 495 F.3d 625, 630, 639 (9th Cir. 2007)
- Andrews v. Shalala, 53 F.3d 1035, 1039 (9th Cir. 1995)
- Magallanes v. Bowen, 881 F.2d 747, 750 (9th Cir. 1989)
- Brown-Hunter v. Colvin, 806 F.3d 487, 488-89, 492 (9th Cir. 2015)
- Bray v. Commissioner of Social Security Administration, 554 F.3d 1219, 1225 (9th Cir. 2009)
- Thomas v. Barnhart, 278 F.3d 947, 954 (9th Cir. 2002)
- Molina v. Astrue, 674 F.3d 1104, 1111, 1113, 1115 (9th Cir. 2012)
- Shinseki v. Sanders, 556 U.S. 396, 409 (2009)
- Lingenfelter v. Astrue, 504 F.3d 1028, 1035-36 (9th Cir. 2007)
- Smolen v. Chater, 80 F.3d 1273, 1282, 1284 (9th Cir. 1996)
- Ghanim v. Colvin, 763 F.3d 1154, 1163 (9th Cir. 2014)
- Burch v. Barnhart, 400 F.3d 676, 681 (9th Cir. 2005)
- Fair v. Bowen, 885 F.2d 597, 603 (9th Cir. 1989)
- Woods v. Kijakazi, 32 F.4th 785, 787, 791-92 (9th Cir. 2022)

OPINION

Hogue
PER CURIAM.
1 WO 2 3 4 5
6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA
8 9 Mark Hogue, No. CV-25-00102-PHX-DJH 10 Plaintiff, ORDER 11 v. 12 Commissioner of Social Security Administration, 13 Defendant. 14 15 Plaintiff Mark Hogue (“Plaintiff”) seeks judicial review of a decision by the Social 16 Security Administration (“SSA”) Commissioner (the “Commissioner”) denying his 17 application for Title II disability benefits. (Doc. 1). Plaintiff filed his Opening Brief 18 (Doc. 17), the Commissioner filed a Response (Doc. 23), and Plaintiff filed a Reply (Doc. 19 24). Upon review of the briefs and Administrative Record (“AR”) the Court affirms the 20 Administrative Law Judge’s (“ALJ”) August 21, 2023, decision (AR at 24–32). 21 I.

Background 22 On January 27, 2021, Plaintiff filed for disability and disability insurance benefits, 23 alleging a disability onset date of April 3, 2020. (Id. at 24). Plaintiff's past relevant work 24 experience includes being a warehouse worker and forklift operator. (Id. at 33). He 25 claims he is unable to work due to the following severe medical impairments: 26 glenohumeral osteoarthritis and degenerative joint disease of the right shoulder. (Id. at 27 27). At the date of onset of disability, Plaintiff was 57 years old, and he had a high 28 school education. (Doc. 17 at 4). 1 Plaintiff's claims were initially denied on June 30, 2021, and upon reconsideration 2 on October 1, 2021. (AR at 24). After holding a hearing, the ALJ issued an unfavorable 3 decision on August 21, 2023 (AR at 24–34) (the "August Decision"). 4 II. The ALJ's Five Step Process 5 To be eligible for Social Security benefits, a claimant must show an "inability to 6 engage in any substantial gainful activity by reason of any medically determinable 7 physical or mental impairment which can be expected to result in death or which has 8 lasted or can be expected to last for a continuous period of not less than 12 months." 9 42 U.S.C. § 423(d)(1)(A); see also Tackett v. Apfel, 180 F.3d 1094, 1098 (9th Cir. 1999). 10 The ALJ follows a five-step process1 to determine whether a claimant is disabled under 11 the Act: 12 The five-step process for disability determinations begins, at the first and second steps, by asking whether a claimant is 13 engaged in "substantial gainful activity" and considering the severity of the claimant's impairments. See 20 C.F.R. § 14 416.920(a)(4)(i)–(ii). If the inquiry continues beyond the second step, the third step asks whether the claimant's 15 impairment or combination of impairments meets or equals a listing under 20 C.F.R. pt. 404, subpt. P, app. 1 and meets the 16 duration requirement. See id. § 416.920(a)(4)(iii). If so, the claimant is considered disabled and benefits are awarded, 17 ending the inquiry. See id. If the process continues beyond the third step, the fourth and fifth steps consider the 18 claimant's "residual functional capacity"2 in determining whether the claimant can still do past relevant work or make 19 an adjustment to other work. See id. § 416.920(a)(4)(iv)–(v). 20 Kennedy v. Colvin, 738 F.3d 1172, 1175 (9th Cir. 2013); see also 20 C.F.R. § 21 404.1520(a)–(g). If the ALJ determines no such work is available, the claimant is 22 disabled. 20 C.F.R. § 404.1520(a)(4)(v). 23 The ALJ's findings in the August Decision are as follows: 24 At step one, the ALJ found that Plaintiff met the insured status requirements of the 25 26 1 The claimant bears the burden of proof on the first four steps, but the burden shifts to the Commissioner at step five. Tackett v. Apfel, 180 F.3d 1094, 1098 (9th Cir. 1999). 27 2 A claimant's residual functional capacity is defined as their maximum ability to do 28 physical and mental work activities on a sustained basis despite limitations from their impairments. See 20 C.F.R. §§ 404.1545(a), 404.1520(e), 416.920(e). 1 Act on March 31, 2023, and that he had not engaged in substantial gainful activity since 2 his alleged onset date of January 27, 2021. (AR at 26–27). At step two, the ALJ found 3 Plaintiff had the following severe impairments: glenohumeral osteoarthritis and 4 degenerative joint disease of the right shoulder. (Id. at 27 (citing 20 C.F.R. 416.920(c)). 5 At step three, he determined that Plaintiff does not have an impairment or combination of 6 impairments that meets or medically equals an impairment listed in Appendix 1 to 7 Subpart P of 20 C.F.R. Part 404. (Id. at 29). 8 At step four,

the ALJ found that Plaintiff has the residual functional capacity ("RFC") through his date last insured to 9 perform medium work and that he was able to "lift and/or carry 25 pounds up to 2/3 of an 8-hour workday and 50 10 pounds up to 1/3 of an 8-hour workday; he could stand and/or walk for 6 hours during an 8-hour workday; he could sit for 6 11 hours during an 8-hour workday; he was able to use his right upper extremity for reaching in any direction or 12 pushing/pulling on a frequent basis; he could climb ladders, ropes or scaffolds up to 1/3 of 8-hour workday and perform 13 all other postural activities without limits; and he could be exposed to hazardous conditions on an occasional basis." (Id. 14 at 29–30). In determining Plaintiff's RFC, the ALJ stated that he "considered all symptoms and the extent to which these 15 symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence, based on the 16 requirements of 20 § C.F.R. 404.1529 and [Social Security Ruling] 16-3p." 17 18 (Id.) The ALJ also considered the opinions and prior administrative findings in 19 accordance with the requirements of 20 C.F.R. § 404.1520c. (Id.) Given his RFC 20 assessment, the ALJ determined that Plaintiff was capable of performing past relevant 21 work as a warehouse worker and forklift operator. (Id. at 33). The ALJ therefore did not 22 reach step five and deemed Plaintiff not disabled from January 27, 2021, the amended 23 alleged onset date, through March 31, 2023, the last date insured. (Id. at 34 (citing 24 20 C.F.R. § 404.1520(f)). 25 The SSA Appeals Council denied Plaintiff's request for review of the August 26 Decision, thus adopting the Decisions as the agency's final decision. (Id. at 1–3). This 27 appeal followed. On January 13, 2025, Plaintiff filed a Complaint under 28 42 U.S.C. §§ 405(g), 1383(c)(3) requesting judicial review and reversal of the 1 Commissioner's decision. (Doc. 1). 2 III. Standard of Review 3 In determining whether to reverse a decision by an ALJ, the district court reviews 4 only those issues raised by the party challenging the decision. See Lewis v. Apfel, 236 5 F.3d 503, 517 n.13 (9th Cir. 2001). "An ALJ's disability determination should be upheld 6 unless it contains legal error or is not supported by substantial evidence." Garrison v. 7 Colvin, 759 F.3d 995, 1009 (9th Cir. 2014) (citing Stout v. Comm'r, Soc. Sec. Admin., 8 454 F.3d 1050, 1052 (9th Cir. 2006)); 42 U.S.C. §§ 405(g), 1383(c)(3)). "'Substantial 9 evidence' means more than a mere scintilla, but less than a preponderance; it is such 10 relevant evidence as a reasonable person might accept as adequate to support a 11 conclusion." Garrison, 759 F.3d at 1009 (9th Cir. 2014) (internal citation omitted). To 12 determine whether substantial evidence supports a decision, the Court must consider the 13 record as a whole and may not affirm simply by isolating a "specific quantum of 14 supporting evidence." Orn v. Astrue, 495 F.3d 625, 630 (9th Cir. 2007). 15 The ALJ is responsible for resolving conflicts, ambiguity, and determining 16 credibility. Andrews v. Shalala, 53 F.3d 1035, 1039 (9th Cir. 1995); Magallanes v. 17 Bowen, 881 F.2d 747, 750 (9th Cir. 1989). The ALJ must "set forth the reasoning behind 18 its decisions in a way that allows for meaningful review." Brown-Hunter v. Colvin, 806 19 F.3d 487, 492 (9th Cir. 2015). This is because district courts may only review those 20 reasons the ALJ places on the record and cannot speculate what the ALJ's reasoning 21 might have been based on other evidence available. Bray v. Commissioner of Social

22 Security Admin., 554 F.3d 1219, 1225 (9th Cir. 2009) ("Long-standing principles of 23 administrative law require [the court] to review the ALJ's decision based on the 24 reasoning and factual findings offered by the ALJ—not post hoc rationalizations that 25 attempt to intuit what the adjudicator may have been thinking."). Generally, "[w]here the 26 evidence is susceptible to more than one rational interpretation, one of which supports the 27 ALJ's decision, the ALJ's conclusion must be upheld." Thomas v. Barnhart, 278 F.3d 28 947, 954 (9th Cir. 2002) (citations omitted). 1 "Harmless error principles apply in the Social Security Act context." Molina v. 2 Astrue, 674 F.3d 1104, 1115 (9th Cir. 2012). An error is harmless if there remains 3 substantial evidence supporting the ALJ's decision, and the error does not affect the 4 ultimate nondisability determination. Id. Typically, the claimant bears the burden of 5 showing that an error is harmful. Id. at 1111 (citing Shinseki v. Sanders, 556 U.S. 396, 6 409 (2009)). 7 IV. Discussion 8 Plaintiff appeals the ALJ's decision rendering him not disabled from January 27, 9 2021, through March 31, 2023. Plaintiff argues that the ALJ's decision should be 10 appealed for two reasons. First, because the ALJ failed to articulate clear and convincing 11 reasons to discount Plaintiff's subjective symptom testimony and second, that the ALJ 12 failed to articulate the supportability and consistency of Dr. Gordon's medical opinion. 13 (Doc. 17 at 7–14). The Commissioner disagrees, arguing that the ALJ did indeed 14 articulate clear and convincing reasons to discount Plaintiff's subjective testimony. (Doc. 15 24 at 1–2). And, the Commissioner argues, the ALJ adequately discussed the 16 supportability and consistency of Dr. Gordon's opinions. (Doc. 23 at 8–11). 17 The Court will set forth the applicable legal standards before turning to each of 18 Plaintiff's arguments. 19 A. Legal Standards 20 An ALJ must perform a two-step analysis when determining whether a claimant's 21 testimony regarding subjective pain or symptoms is credible. Lingenfelter, 504 F.3d at 22 1035–1036 (9th Cir. 2007). First, the ALJ must determine whether Plaintiff presented 23 objective medical evidence of an impairment that could reasonably be expected to 24 produce the symptoms alleged. Garrison, 759 F.3d at 1014. "In this analysis, the 25 claimant is not required to show 'that her impairment could reasonably be expected to 26 cause the severity of the symptom she has alleged; she need only show that it could 27 reasonably have caused some degree of the symptom.' " Id. (quoting Smolen v. Chater, 28 80 F.3d 1273, 1282 (9th Cir. 1996)). Second, if there is no evidence of malingering, the 1 ALJ may reject the Plaintiff's symptom testimony only by giving specific, clear, and 2 convincing reasons. Id. at 1015; Brown-Hunter, 806 F.3d at 488–89. "This is not an 3 easy requirement to meet: 'The clear and convincing standard is the most demanding 4 required in Social Security cases.'" Garrison, 759 F.3d at 1015 (quoting Moore v. 5 Comm'r of Soc. Sec. Admin., 278 F.3d 920, 924 (9th Cir. 2002)). "The standard isn't 6 whether [the reviewing] court is convinced, but instead whether the ALJ's rationale is 7 clear enough that it has the power to convince." Smartt v. Kijakazi, 53 F.4th 489, 494 8 (9th Cir. 2022) 9 To determine whether a claimant's testimony regarding the severity of her 10 symptoms is credible, an ALJ may consider the following: 11 (1) ordinary techniques of credibility evaluation, such as the claimant's reputation for lying, prior inconsistent statements concerning the 12 symptoms, and other

testimony by the claimant that appears less 13 than candid; 14 (2) unexplained or inadequately explained failure to seek treatment or to follow a prescribed course of treatment; and 15
(3) the claimant's daily activities.
16 Smolen, 80 F.3d at 1284. An ALJ may also consider the claimant's work record, and the 17 observations of treating and examining physicians and other third parties regarding "the 18 nature, onset, duration and frequency of claimant's symptoms, and precipitating and 19 aggravating factors, functional restrictions caused by the symptoms, and the claimant's 20 daily activities." Id. "General findings are insufficient; rather, the ALJ must identify 21 what testimony is not credible and what evidence undermines the claimant's complaints." 22 Ghanim v. Colvin, 763 F.3d 1154, 1163 (9th Cir. 2014). 23 B. Plaintiff's Symptom Testimony 24 At issue is Plaintiff's testimony that he suffers from occasional reaching with the 25 right upper extremity. (Doc. 17 at 8). The ALJ summarized Plaintiff's relevant symptom 26 testimony as follows: 27 He stated that he could comfortably lift and carry up to 25 28 pounds, before having his surgery on his right shoulder and 1 that he could do that off and on for 2 hours in an 8-hour workday. He stated that due to his right shoulder impairment, 2 he could not reach his right arm above shoulder height. He stated that he could use his right hand for activities such as 3 grasping, writing, and typing for only about 1 to 1.5 hours at a time. He stated that during a typical 8-hour day during the 4 relevant period, he spent approximately 4-5 hours lying down due to chronic pain. 5 6 (AR at 69). At the first step of the symptom testimony analysis, the ALJ determined that 7 Plaintiff's "medically determinable impairments could reasonably be expected to cause 8 the alleged symptoms." (Id.) However, at the second step, the ALJ concluded that 9 Plaintiff's "statements concerning the intensity, persistence and limiting effects of her 10 alleged symptoms are not entirely consistent with the medical evidence and other 11 evidence in the record." (Id.) The ALJ particularly took issue with the extent of 12 Plaintiff's limitations for his shoulder impairment. (Id. at 31). 13 Plaintiff argues that his testimony described greater limitations than those reflected 14 in the ALJ's RFC, and that the ALJ erred in discounting his testimony based on 15 inconsistencies in the medical record and his daily activities. 16 C. Objective Medical Records 17 The Court first addresses the ALJ's discussion of objective medical records. The 18 ALJ relied on imaging from March 2020 and noted that while it showed moderate- 19 advanced degenerative change, of the glenohumeral joint, the acromioclavicular joint still 20 maintained a normal appearance. (AR at 31). The ALJ continued that during a treatment 21 note in 2022, Plaintiff did not complain of any shoulder pain. (Id.) Referencing his most 22 recent scan before his date last insured, the ALJ also noted that while it showed that 23 Plaintiff had advanced glenohumeral osteoarthritis, this was balanced by the findings in 24 the examination of Dr. Robert Gordon ("Dr. Gordon"). (Id.) The Commissioner argues 25 that the ALJ adequately identified areas in the medical record that were inconsistent with 26 Plaintiff's testimony. (Doc. 23 at 5). The Court agrees. 27 D. Daily Activities 28 The Court will now turn to the ALJ's discussion of Plaintiff's daily activities. A 1 plaintiff's ability to carry out "daily activities may be grounds for an adverse credibility 2 finding if a claimant is able

to spend a substantial part of his day engaged in pursuits 3 involving the performance of physical functions that are transferable to a work setting." 4 Orn, 495 F.3d at 639 (internal quotations and citations omitted). "The ALJ must make 5 'specific findings relating to the daily activities' and their transferability to conclude that 6 a claimant's daily activities warrant an adverse credibility determination." Id. (quoting 7 Burch v. Barnhart, 400 F.3d 676, 681(9th Cir. 2005)). There are two grounds for using 8 daily activities to form the basis of an adverse credibility determination: (1) when the 9 plaintiff's described activities contradict his other testimony; and (2) when the plaintiff's 10 activities "meet the threshold for transferable work skills." Id. (citing Fair, 885 F.2d at 11 603); see also Molina, 674 F.3d at 1113 ("Even where those activities suggest some 12 difficulty functioning, they may be grounds for discrediting the claimant's testimony to 13 the extent that they contradict claims of a totally debilitating impairment"). 14 The ALJ summarized Plaintiff's activities as follows: "Further, the claimant 15 testified at the hearing that prior to his shoulder surgery, which occurred after the date 16 last insured, he was able to help with household chores such as cleaning the stove and 17 helping in the kitchen." (AR at 32). The ALJ noted that this was before the surgery on 18 his right shoulder, which occurred after the last date insured. (Id.) While the ALJ did not 19 provide reasoning as to why being able to clean the stove and help in the kitchen are 20 related to transferrable work skills, the Court finds that this is harmless error. See Molina, 21 674 F.3d at 1115 (An error is harmless if there remains substantial evidence supporting 22 the ALJ's decision, and the error does not affect the ultimate no disability determination) 23 1. Supportability and Consistency of Dr. Gordon's Opinions 24 Lastly, Plaintiff argues that the ALJ erred by finding the opinion of Dr. Gordon 25 less persuasive with the medical record as a whole. (Doc. 17 at 13). The Commissioner 26 counters by arguing that the ALJ properly assessed the medical opinions of Dr. Gordon 27 and specifically pointed to instances where Dr. Gordon's opinion conflicted with the 28 entirety of the medical record. (Doc. 23 at 10–11). 1 Because Plaintiff's application for SSI benefits at issue occurred after March 27, 2 2017, she is subject to the new regulations for evaluating evidence from medical 3 providers. See 20 C.F.R. § 416.920c. The new regulations eliminate the previous 4 hierarchy of medical opinions, and the ALJ is not allowed to defer to or give specific 5 weight to any medical opinions: 6 We will not defer or give any specific evidentiary weight, including controlling weight, to any medical opinion(s) or 7 prior administrative medical finding(s), including those from your medical sources . . . The most important factors we 8 consider when we evaluate the persuasiveness of medical opinions and prior administrative medical findings are 9 supportability (paragraph (c)(1) of this section) and consistency (paragraph (c)(2) of this section). We will 10 articulate how we considered the medical opinions and prior administrative medical findings in your claim according to 11 paragraph (b) of this section. 12 Id. § 416.920c.3 The regulations require an ALJ to articulate how persuasive they find all the medical opinions and prior 13 administrative medical findings and set forth specific "articulation requirements" for the ALJ's evaluation of the 14 medical opinion evidence. Id. §§ 404.1520c(b), 416.920(b). 15 The Ninth Circuit confirmed that the recent changes

to the SSA regulations 16 displaced the former hierarchy of medical opinions. Woods, 32 F.4th at 787. The 17 longstanding rule that assigned "presumptive weight based on the extent of the doctor's 18 relationship with the claimant [] no longer applies." Id. An ALJ no longer needs to 19 articulate "specific and legitimate reasons" for rejecting a treating or examining doctor's 20 opinion. Id. at 792. "Now, an ALJ's decision . . . to discredit any medical opinion, must 21 simply be supported by substantial evidence." Id. at 787 (emphasis added). 22 However, "[e]ven under the new regulations, an ALJ cannot reject an examining 23 or treating doctor's opinion as unsupported or inconsistent without providing an 24 explanation supported by substantial evidence." Id. at 792. Instead, "[t]he agency must 25 articulate how persuasive it finds all the medical opinions from each doctor or other 26 3 Other factors that may be considered by the ALJ in addition to supportability and 27 consistency include the provider's relationship with the claimant, the length of the treatment relationship, frequency of examinations, purpose and extent of the treatment 28 relationship, and the specialization of the provider. 20 C.F.R. § 416.920c. 1 source and explain how it considered the supportability and consistency factors in 2 reaching these findings." Id. Supportability refers to "the extent to which a medical 3 source supports the medical opinion by explaining the 'relevant . . . objective medical 4 evidence." Id. at 791–92 (quoting 20 C.F.R. § 404.1520c(c)(1)). Consistency refers to 5 "the extent to which a medical opinion is 'consistent . . . with the evidence from other 6 medical sources and nonmedical sources in the claim." Id. at 792 (quoting 20 C.F.R. § 7 404.1520c(c)(2)). 8 Here, the ALJ parsed between the parts of Dr. Gordon's opinion he found 9 persuasive and those he did not. He started by noting the parts of Dr. Gordon's opinion 10 that were consistent with the medical record as a whole. For example, he stated that Dr. 11 Gordon's opinion about Plaintiff's ability to "lift, carry, stand, and walk are generally 12 consistent with the claimant's normal strength in the bilateral upper and lower 13 extremities." (AR at 33). Dr. Gordon's opinion about Plaintiff not being exposed to 14 hazardous conditions given Plaintiff's shoulder condition, he also found consistent with 15 the rest of the medical record. (Id.) When moving to where he found the opinion 16 inconsistent and unsupported, he specifically pointed to the following: 17 [T]hough his opinion regarding the claimant's ability to balance, stoop, kneel, crouch and crawl appears to be a bit 18 excessive given the claimant's normal range of motion of the back, hips, knees, ankles, elbows, neck, wrists and hands. 19 Accordingly, I find the claimant less limited in these postural activities. Dr. Gordon's opinion that the claimant could reach 20 (overhead and otherwise) only occasionally bilaterally is unpersuasive as it appears based mostly on the claimant's 21 subjective reports of pain and it is inconsistent with the claimant's full (5/5) strength in the bilateral upper 22 extremities, as well as his normal bilateral shoulder examination (See B4F/4). While the claimant expressed 23 subjective pain in the bilateral shoulders and limited range of motion in the bilateral shoulders based on his subjective pain, 24 the claimant later clarified at the hearing that his left shoulder was only occasionally painful. There also is no laboratory 25 findings establishing a medically determinable impairment related to his left shoulder. Thus, I find the overall evidence 26 does not support any reaching,

pushing/pulling limitations regarding the left shoulder. Regarding the right shoulder, I 27 find that the overall evidence prior to the date last insured is more consistent with the ability to reach in any direction with 28 the right arm, as well as push/pull with the right arm on a frequent basis. This is supported by his full strength in the l bilateral upper extremities (see B4F/4), his normal shoulder examination at B4F/4, as well as the fact that he was not 2 referred for surgical intervention until after the date last insured. 3 4|| (AR at 33). The Court finds that there is substantial evidence to support the ALJ's 5|| decision to disregard Dr. Gordon's assessment, in the parts that he did, under the || supportability and consistency factors. The ALJ reasonably found that Dr. Gordon's assessment of Plaintiff's mobility limitations in his right shoulder was unpersuasive 8 || because it mainly relied on Plaintiff's subjective complaints about his lack of mobility 9 || and was undermined by the rest of the medical evidence. 20 C.F.R. § 404.1520c(c)(1)). V. Conclusion 11 The ALJ sufficiently conveyed his reasons for rejecting Plaintiffs symptom 12 || testimony. Likewise, the ALJ sufficiently articulated why he disregarded Dr. Gordon's 13 || medical opinion. Therefore, the ALJ's conclusion that Plaintiff was not disabled from his alleged onset date of January 27, 2022, through to March 31, 2023, is supported by 15 || substantial evidence. 16 Accordingly, 17 IT IS ORDERED that the Administrate Law Judge's August 21, 2023, decision 1s 18 || affirmed. 19 IT IS FURTHER ORDERED that the Clerk of Court is kindly directed to enter 29 || judgment accordingly and terminate this action. 21 Dated this 30th day of March, 2026. 22 23 ' Ja — □ 24 bz Ding United States District Fudge 26 27 28 -ll-