

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

**Andrew Jacob Marsala v. Frank Bisignano, Commissioner of Social
Security**

No. 1:23-cv-01407-JLT-GSA (E.D. Cal. Sept. 29, 2025) · No. 1:23-cv-01407 JLT GSA · Decided September 30,
2025

OPINION

Andrew Jacob Marsala v. Frank Bisignano, Commissioner of Social Security

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 ANDREW JACOB MARSALA, Case No. 1:23-cv-1407 JLT GSA 12 Plaintiff, ORDER
ADOPTING THE FINDINGS AND

RECOMMENDATIONS, DENYING

13 v. PLAINTIFF’S MOTION FOR SUMMARY

JUDGMENT, AND GRANTING

14 FRANK BISIGNANO, DEFENDANT’S REQUEST TO AFFIRM

Commissioner of Social Security¹

15 ORDER DIRECTING ENTRY OF

Defendant. JUDGMENT IN FAVOR OF DEFENDANT

16 AND AGAINST PLAINTIFF

17 (Docs. 15, 17 & 18) 18 Andrew Jacob Marsala seeks judicial review of the administrative
decision to deny his 19 application for a period of disability and disability insurance benefits
under Title II of the Social 20 Security Act. (Docs. 1, 15.) Plaintiff contends the administrative law
judge erred in evaluating 21 the medical opinions related to his mental impairments and “failed to
offer any reason for 22 rejecting Plaintiff’s subjective complaints.” (See Doc. 15 at 2, 3-10.) The
Commissioner asserts 23 the Court should affirm the administrative decision. (Doc. 17.) 24 The
magistrate judge found the ALJ properly considered the supportability and 25 consistency of the
medical opinions and evidence related to Plaintiff’s mental impairments. (Doc. 26 18 at 4-9.) In
addition, the magistrate judge determined there was “no basis to remand the matter 27 1 Frank
Bisignano became the Commissioner of Social Security on May 6, 2025. Pursuant to Rule 25(d) 1
for further evaluation of [Plaintiff’s] subjective complaints.” (Id. at 11; see also id. at 9-10.) The 2
magistrate judge recommended the Court deny Plaintiff’s motion for summary judgment, affirm 3
the ALJ’s decision, and enter judgment in favor of the Commissioner. (Id. at 12.) 4 Plaintiff filed

timely objections, asserting the Court should decline the Findings and 5 Recommendations. (Doc. 19.) Plaintiff “relies upon the arguments set forth in his opening brief” 6 related to the medical opinions. (Id. at 1-2.) Plaintiff contends the magistrate judge 7 mischaracterized the opening brief in finding Plaintiff did not identify what work limitations he 8 believed should be included in the residual functional capacity, because he summarized the 9 testimony and the ALJ’s findings. (Id. at 2.) Plaintiff contends this was sufficient to “provide a 10 comparison point.” (Id.) 11 Plaintiff’s reliance upon his opening brief does not state a sufficiently specific objection— 12 as required by Rule 72—because it does not address the findings of the magistrate judge. See 13 Fed. R. Civ. P. 72; see also *Grizzle v. County of San Diego*, 2020 WL 4746211, at *2 (S.D. Cal.

14 Aug. 17, 2020) (finding an “attempt to incorporate by reference prior arguments is not proper” as

15 an objection to findings and recommendations); *Condit v. Comm’r of Soc. Sec. Admin*, 2022 WL 16 3644095, at *2 (D. Az. Aug. 23, 2022) (finding that where the plaintiff indicated he “reasserts and 17 relies upon the arguments set forth in his Opening Brief,” the plaintiff did not raise a proper 18 objection, because review by the district judge “is not a blanket do-over”); *Green v. Garland*, 19 2022 WL 2965634, at *2 (D.S.C. July 27, 2022) (“a specific objection requires more than a 20 reassertion of arguments”). Plaintiff also fails to show the magistrate judge erred in addressing his 21 subjective complaint and the RFC. Previously, the Ninth Circuit “reject[ed] any invitation to find 22 that the ALJ failed to account for [the claimant’s] injuries in some unspecified way” where the 23 RFC included several limitations and the plaintiff “failed to identify” what other limitations 24 followed from his impairments, aside from those “already listed in the RFC.” *Valentine v. 25 Comm’r of SSA*, 574 F.3d 685, 692 n.2 (9th Cir. 2009) (emphasis added). As courts have 26 repeatedly explained, “judges are not like pigs, hunting for truffles buried in briefs.” *Indep. 27 Towers of Wash. v. Washington*, 350 F.3d 925, 929 (9th Cir. 2003) (quoting *United States v. 1 limitations a claimant believes should have been incorporated into an RFC is fatal to a claimant’s 2 challenge of the RFC. See, e.g., Juarez v. Colvin*, 2014 WL 1155408 at *6 (C.D. Cal. Mar. 20, 3 2014) (rejecting an argument that the ALJ erred in evaluating the claimant’s limitations where the 4 plaintiff did not specify additional limitations the ALJ failed to consider); *Hansen v. Berryhill*, 5 2018 WL 721660, at *4 (W.D. Wash. Feb. 6, 2018) (“Although Plaintiff argues that the ALJ 6 erred in failing to account for the limitations caused by his ADHD in the RFC assessment, he 7 does not identify which limitations were erroneously omitted, and has thus failed to state an 8 allegation of error in the RFC assessment with the requisite specificity”). Providing “a 9 comparison point” is not sufficient, as Plaintiff suggests. The Court is unable to speculate as to 10 the limitations Plaintiff believes the ALJ should have incorporated into the RFC from his 11 testimony. 12 The ALJ invoked several reasons to discount Plaintiff’s subjective statements, including 13 the conservative treatment Plaintiff received, the failure to pursue more aggressive treatment, his 14 level of activity, and conflicts with the objective medical evidence. (Doc. 12-2 at 47-48.) Review 15 of the record shows these are each clear and convincing reasons

to discount the subjective 16 statements. See, e.g., *Smartt v. Kijakazi*, 53 F.4th 489, 499-500 (9th Cir. 2022) (finding the ALJ 17 identified “clear and convincing” reasons to reject the claimant’s statements when discussing the 18 objective medical evidence, her level of activity, and the “generally conservative treatment 19 plan”); *Fair v. Bowen*, 885 F.2d 597, 603 (9th Cir. 1989) (identifying factors the ALJ may 20 consider to assess a claimant’s subjective statements). The ALJ carried the burden to set forth 21 findings “sufficiently specific to allow a reviewing court to conclude the ALJ rejected the 22 claimant’s testimony on permissible grounds.” *Moisa v. Barnhart*, 367 F.3d 882, 885 (9th Cir. 23 2004). 24 According to 28 U.S.C. § 636(b)(1), the Court performed a de novo review of this case. 25 Having carefully reviewed the entire matter—including Plaintiff’s objections and the 26 Commissioner’s response—the Court concludes the findings of the magistrate judge are 27 supported by the record and proper analysis. The ALJ properly evaluated the medical opinions 1 || persuasiveness. In addition, Plaintiff fails to show the ALJ erred in evaluating his subjective 2 || complaints. The Court must affirm the administrative decision because substantial evidence 3 || supports the ALJ’s findings. Thus, the Court ORDERS:

4 1. The Findings and Recommendations (Doc. 18) are ADOPTED in full. 5 2. Plaintiff’s motion for summary judgment (Doc. 15) is DENIED. 6 3. Defendant’s request to affirm the administrative decision (Doc. 17) is 7 GRANTED. 8 4. The Clerk of Court is directed to terminate pending motions; enter judgment in 9 favor of Defendant Frank Bisignano, Commissioner of Social Security, and against 10 Plaintiff Andrew Jacob Marsala; and to close this case. 11 IT IS SO ORDERED. 3 Dated: _ September 29, 2025 Cerin | Tower

TED STATES DISTRICT JUDGE

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