

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Mark E. Allen v. Leland Dudek

Case No. ED CV 24-2281-E (C.D. Cal. May 21, 2025) · No. ED CV 24-2281-E · Decided May 21, 2025

SUMMARY

The United States District Court for the Central District of California reviews the denial of Mark E. Allen’s application for supplemental security income. The court holds that the Administrative Law Judge’s residual functional capacity assessment was supported by substantial evidence and that the ALJ gave legally sufficient reasons for discounting Plaintiff’s subjective complaints. The court therefore rejects Plaintiff’s challenge to the Commissioner’s decision.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Charles F. Eick
JURISDICTION	United States District Court for the Central District of California
DECIDED	May 21, 2025
DOCKET	ED CV 24-2281-E
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff sought judicial review under 42 U.S.C. § 405(g) of the Commissioner of Social Security's denial of supplemental security income benefits.
STANDARD OF REVIEW	Under 42 U.S.C. § 405(g), the court determines whether the Commissioner's decision is supported by substantial evidence and is free of legal error. The court must consider the record as a whole and may not substitute its judgment for that of the ALJ when the evidence reasonably supports either outcome.
PRECEDENTIAL VALUE	unpublished district court memorandum opinion; precedential status unknown
PARTIES	Mark E. A. v. Leland Dudek, Acting Commissioner of Social Security

TOPICS

- judicial review of agency action
- agency adjudication
- administrative law

PRACTICE AREAS

Social Security disability benefits

administrative law

judicial review of agency action

disability benefits

evidence and subjective symptom testimony

QUESTIONS PRESENTED

1. Whether substantial evidence supported the ALJ's residual-functional-capacity finding and conclusion that Plaintiff could perform work existing in significant numbers in the national economy.
2. Whether the ALJ provided legally sufficient reasons for discounting Plaintiff's subjective testimony and statements concerning the intensity, persistence, and limiting effects of his symptoms.

HOLDINGS

1. The ALJ's conclusion that Plaintiff could perform a limited range of light work and could perform jobs existing in significant numbers in the national economy was supported by substantial evidence and was not materially legally erroneous.
2. The ALJ did not materially err in discounting Plaintiff's subjective complaints because the ALJ provided sufficiently specific, permissible reasons supported by the record, including inconsistency with objective medical evidence, conservative or limited treatment, and evidence that medication controlled or improved symptoms.

KEY QUOTATIONS

"If the evidence can support either outcome, the court may not substitute its judgment for that of the ALJ."
(Opinion at Standard of Review)

"Because the ALJ's credibility findings were sufficiently specific to allow this Court to conclude that the ALJ rejected Plaintiff's testimony on permissible grounds, Moisa v. Barnhart, 367 F.3d at 885, the Court defers to the ALJ's credibility findings." (Opinion at Discussion § II.C)

FACTUAL BACKGROUND

Plaintiff alleged disability based on Bartter syndrome, chronic kidney disease, scoliosis, back pain, insomnia, colon cancer in remission, headaches, blurry vision, and learning disabilities. The ALJ found severe impairments of unspecified depressive disorder and chronic kidney disease but determined that Plaintiff could perform a limited range of light work involving simple instructions and no concentrated exposure to certain hazards. The medical record reflected generally stable renal functioning, normal or largely unremarkable examinations, medication treatment, and medical opinions supporting limitations no greater than those assessed by the ALJ. Plaintiff challenged the ALJ's evaluation of his testimony and subjective statements.

PROCEDURAL HISTORY

Plaintiff applied for supplemental security income in August 2020. An ALJ found that Plaintiff had severe impairments but retained the residual functional capacity for a limited range of light work and denied benefits based on vocational-expert testimony. The Appeals Council denied review, and Plaintiff filed this action. The

parties consented to magistrate-judge jurisdiction; the court affirmed the administrative decision and dismissed the action with prejudice.

DISPOSITION

dismissed

CASES CITED

- *McCutcheon v. Hartford Life & Accident Insurance Co.*, 2009 WL 1971427, at *1 n.2 (C.D. Cal. July 1, 2009)
- *Chavez v. Bowen*, 844 F.2d 691 (9th Cir. 1988)
- *Carmickle v. Commissioner*, 533 F.3d 1155, 1159 (9th Cir. 2008)
- *Hoopai v. Astrue*, 499 F.3d 1071, 1074 (9th Cir. 2007)
- *Brewes v. Commissioner*, 682 F.3d 1157, 1161 (9th Cir. 2012)
- *Richardson v. Perales*, 402 U.S. 389, 401 (1971)
- *Widmark v. Barnhart*, 454 F.3d 1063, 1066 (9th Cir. 2006)
- *Tackett v. Apfel*, 180 F.3d 1094, 1098 (9th Cir. 1999)
- *Orn v. Astrue*, 495 F.3d 625, 631-32 (9th Cir. 2007)
- *Tonapetyan v. Halter*, 242 F.3d 1144, 1149 (9th Cir. 2001)
- *Andrews v. Shalala*, 53 F.3d 1035, 1041 (9th Cir. 1995)
- *Barker v. Secretary of Health and Human Services*, 882 F.2d 1474, 1478-80 (9th Cir. 1989)
- *Martinez v. Heckler*, 807 F.2d 771, 774-75 (9th Cir. 1986)
- *Anderson v. Sullivan*, 914 F.2d 1121, 1124 (9th Cir. 1990)
- *Nyman v. Heckler*, 779 F.2d 528, 531 (9th Cir. 1985)
- *Berry v. Astrue*, 622 F.3d 1228, 1234 (9th Cir. 2010)
- *Lester v. Chater*, 81 F.3d 821, 834 (9th Cir. 1995)
- *Smolen v. Chater*, 80 F.3d 1273, 1282-84 (9th Cir. 1996)
- *Moisa v. Barnhart*, 367 F.3d 882, 885 (9th Cir. 2004)
- *Holohan v. Massanari*, 246 F.3d 1195, 1208 (9th Cir. 2001)
- *McLeod v. Astrue*, 640 F.3d 881, 886-88 (9th Cir. 2011)
- *Burch v. Barnhart*, 400 F.3d 676, 679 (9th Cir. 2005)
- *Smartt v. Kijakazi*, 53 F.4th 489, 498-500 (9th Cir. 2022)
- *Carmickle v. Commissioner*, 533 F.3d 1155, 1161 (9th Cir. 2008)
- *Kitchen v. Kijakazi*, 82 F.4th 732, 739 (9th Cir. 2023)
- *Parra v. Astrue*, 481 F.3d 742, 751 (9th Cir. 2007), cert. denied, 552 U.S. 1141 (2008)
- *Meanel v. Apfel*, 172 F.3d 1111, 1114 (9th Cir. 1999)
- *Bunnell v. Sullivan*, 947 F.2d 341, 346 (9th Cir. 1991) (en banc)
- *Matthews v. Shalala*, 10 F.3d 678, 679-80 (9th Cir. 1993)

- Johnson v. Shalala, 60 F.3d 1428, 1434 (9th Cir. 1995)
- Boggs v. Kijakazi, 2022 WL 1657022, at *1 (9th Cir. May 25, 2022)
- Wellington v. Berryhill, 878 F.3d 867, 876 (9th Cir. 2017)
- Lapuzz v. Berryhill, 740 Fed. App'x 596, 597 (9th Cir. 2018)
- Tommasetti v. Astrue, 533 F.3d 1035, 1039-40 (9th Cir. 2008)
- Warre v. Commissioner, 439 F.3d 1001, 1006 (9th Cir. 2006)
- Lambert v. Saul, 980 F.3d 1266, 1277 (9th Cir. 2020)
- Lasich v. Astrue, 252 Fed. App'x 823, 825 (9th Cir. 2007)
- Flaten v. Secretary of Health and Human Services, 44 F.3d 1453, 1464 (9th Cir. 1995)
- Magallanes v. Bowen, 881 F.2d 747, 750, 755-56 (9th Cir. 1989)
- Nerio Mejia v. O'Malley, 120 F.4th 1360, 1363 (9th Cir. 2024)
- Ferguson v. O'Malley, 95 F.4th 1194, 1197-98 (9th Cir. 2024)
- Glanden v. Kijakazi, 86 F.4th 838, 846 (9th Cir. 2023)
- Leon v. Berryhill, 880 F.3d 1041, 1046 (9th Cir. 2017)
- Ahearn v. Saul, 988 F.3d 1111, 1116 (9th Cir. 2021)

OPINION

Mark E. Allen v. Leland Dudek

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 CENTRAL DISTRICT OF CALIFORNIA

10 11 MARK E. A., Case No. ED CV 24-2281-E 12 Plaintiff, 13

v. MEMORANDUM OPINION

14 LELAND DUDEK, Acting 15 Commissioner of Social Security, 16 Defendant. 17 18

19 PROCEEDINGS

20 21 Plaintiff filed a complaint on October 25, 2024, seeking review of the 22 Commissioner's
denial of disability benefits. The parties consented to proceed 23 before a United States Magistrate
Judge on November 8, 2024. Plaintiff filed 24 "Plaintiff's Brief" on April 3, 2025. Defendant filed
"Defendant's Brief" on

25 May 2, 2025. Plaintiff did not file a timely reply brief.

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1 BACKGROUND AND SUMMARY OF ADMINISTRATIVE DECISION

2 3 Plaintiff applied for supplemental security income on August 4, 2020, 4 alleging disability
based on assertions of Bartter syndrome,1 scoliosis, a back 5 injury/pain, insomnia, colon cancer
in remission, headaches, blurry vision, and 6 learning disabilities (Administrative Record ("A.R.")
44, 258). An Administrative 7 Law Judge ("ALJ") reviewed the record and heard testimony from
Plaintiff and a 8 vocational expert (A.R. 44-53, 58-72). 9 10 The ALJ found that Plaintiff has the

following severe impairments: 11 unspecified depressive disorder and chronic kidney disease (A.R. 46). However, 12 the ALJ also found that Plaintiff retains the residual functional capacity for light 13 work, limited to: (1) understanding, remembering, and carrying out simple 14 instructions; and (2) no concentrated exposure to hazards such as working at 15 16 1 “Bartter[] Syndrome is an inherited defect in the renal tubules that causes low potassium levels (hypokalemia), low chloride levels, which causes metabolic 17 alkalosis.” See *McCutcheon v. Hartford Life & Acc. Ins. Co.*, 2009 WL 1971427, 18 at *1 n.2 (C.D. Cal. July 1, 2009); see also *Bartter Syndrome*, <https://rarediseases.org/rare-diseases/bartters-syndrome/> (last visited May 5, 2025) 19 (“Bartter syndrome is a general term for a group of rare genetic disorders in which 20 there are specific defects in kidney function. . . . The symptoms and severity of Bartter syndrome vary from one person to another and can range from mild to 21 severe. . . . Treatment is aimed at correcting the electrolyte imbalances using 22 supplements and certain medications such as nonsteroidal anti-inflammatories (NSAIDs) and diuretics.”). 23 Plaintiff had been found disabled as of October 17, 2007, based on Bartter 24 Syndrome, a seizure disorder, and depression (A.R. 76-80). However, Plaintiffs 25 disability benefits ended following a contrary hearing decision in 2018 (A.R. 44, 89). In the current administrative proceeding, the Administrative Law Judge 26 (“ALJ”) found that Plaintiff had rebutted the presumption of continuing non- 27 disability, and so the ALJ considered the claim anew (A.R. 44-53 (citing *Chavez v. Bowen*, 844 F.2d 691 (9th Cir. 1988))). 28 1 unprotected heights and operating heavy machinery. See A.R. 48-52 (adopting 2 limitations consistent with the medical opinions, which the ALJ found persuasive, 3 and discounting Plaintiff’s testimony and statements suggesting greater limitations). 4 The ALJ identified certain light jobs Plaintiff assertedly could perform and, on that 5 basis, denied benefits. See A.R. 52-53 (relying on the vocational expert’s 6 testimony at A.R. 69-71). The Appeals Council denied review (A.R. 28-30). 7

8 STANDARD OF REVIEW

9

10 Under 42 U.S.C. section 405(g), this Court reviews the Administration’s
11 decision to determine if: (1) the Administration’s findings are supported by 12 substantial evidence; and (2) the Administration used correct legal standards. See 13 *Carmickle v. Comm’r*, 533 F.3d 1155, 1159 (9th Cir. 2008); *Hoopai v. Astrue*, 499 14 F.3d 1071, 1074 (9th Cir. 2007); see also *Brewes v. Comm’r*, 682 F.3d 1157, 1161 15 (9th Cir. 2012). Substantial evidence is “such relevant evidence as a reasonable 16 mind might accept as adequate to support a conclusion.” *Richardson v. Perales*, 17 402 U.S. 389, 401 (1971) (citation and quotations omitted); see also *Widmark v. 18 Barnhart*, 454 F.3d 1063, 1066 (9th Cir. 2006). 19 20 If the evidence can support either outcome, the court may not 21 substitute its judgment for that of the ALJ. But the Commissioner’s 22 decision cannot be affirmed simply by isolating a specific quantum of 23 supporting evidence. Rather, a court must consider the record as a 24 whole, weighing both evidence that supports and evidence that detracts 25 from the [administrative] conclusion. 26 27

Tackett v. Apfel, 180 F.3d 1094, 1098 (9th Cir. 1999) (citations and quotations 28 omitted).

1 DISCUSSION

2 3 Plaintiff contends that the ALJ erred by discounting Plaintiff's testimony and 4 statements without stating legally sufficient reasons for doing so. See Plaintiff's 5 Brief, pp. 3-10. As discussed below, the Court disagrees. The Administration's 6 findings are supported by substantial evidence and are free from material² legal 7 error. 8 9 I. Substantial Evidence Supports the ALJ's Conclusion that Plaintiff Can 10 Work. 11 12 Substantial evidence supports the conclusion that Plaintiff can work. As 13 explained in more detail, *infra*, all the medical sources who opined concerning 14 Plaintiff's capacity found limitations lesser than, or consistent with, the limitations 15 assessed by the ALJ. Compare A.R. 48 (ALJ's assessment) with A.R. 94, 97-99, 16 110, 113-15 (state agency physicians' opinions) and A.R. 453 (consultative 17 examiner's opinion). These opinions furnish substantial evidence to support the 18 ALJ's residual functional capacity assessment. See *Orn v. Astrue*, 495 F.3d 625, 19 631-32 (9th Cir. 2007) (opinion of examining physician based on independent 20 clinical findings can provide substantial evidence to support administrative 21 conclusion of non-disability); *Tonapetyan v. Halter*, 242 F.3d 1144, 1149 (9th Cir. 22 2001) (opinion of non-examining physician "may constitute substantial evidence 23 when it is consistent with other independent evidence in the record"); *Andrews v. 24 Shalala*, 53 F.3d 1035, 1041 (9th Cir. 1995) (where the opinions of non-examining 25 physicians do not contradict "all other evidence in the record," such opinions may 26 2 The harmless error rule applies to the review of administrative decisions 27 regarding disability. See *McLeod v. Astrue*, 640 F.3d 881, 886-88 (9th Cir. 2011); *Burch v. Barnhart*, 400 F.3d 676, 679 (9th Cir. 2005). 28 1 furnish substantial evidence). 2 3 The vocational expert testified that a person with the residual functional 4 capacity the ALJ found to exist could perform jobs existing in significant numbers 5 in the national economy. See A.R. 69-71. The ALJ properly relied on the 6 vocational expert's opinion in finding Plaintiff not disabled. See *Barker v. Sec'y of 7 Health and Human Servs.*, 882 F.2d 1474, 1478-80 (9th Cir. 1989); *Martinez v. 8 Heckler*, 807 F.2d 771, 774-75 (9th Cir. 1986). 9 10 II. The ALJ Did Not Materially Err in Discounting Plaintiff's Subjective 11 Complaints. 12 13 Plaintiff argues that the ALJ failed to state sufficient reasons for discounting 14 Plaintiff's testimony and statements. The Court discerns no material error. 15 16 A. Summary of Plaintiff's Testimony and Statements 17 18 Plaintiff testified that he had not been able to work since around 2000, due to 19 health problems and difficulty keeping up with work demands (A.R. 62). His 20 Bartter syndrome allegedly was causing him to have "a cardiac arrest seizure" when 21 his potassium and magnesium got too low (A.R. 62). Potassium and magnesium 22 supplements reportedly helped manage Plaintiff's Bartter syndrome (A.R. 63). 23 Plaintiff said his electrolytes are still off balance, which assertedly causes fatigue, 24 dizziness, fainting, insomnia, and difficulty getting up early or doing outdoor 25 activities in the sun (A.R. 63-66, 68). Plaintiff said he also has back pain from 26 scoliosis, for which he was taking hydrocodone (A.R. 66). He estimated that he 27 could stand for only four to six minutes at a time and could lift only 40 pounds 28 (A.R. 66-67). Plaintiff

claimed that his issues generally interfere with his ability to 1 keep up with the demands and pace of work (A.R. 69). 2 3 In a Function Report form completed by Plaintiff and his wife, Plaintiff 4 reported limited daily activities and indicated that his wife did most of the 5 household chores (A.R. 299-306). Plaintiff stated that he cannot stand long due to 6 his Bartter syndrome, he has uncontrolled seizures, and his equilibrium is off (A.R. 7 299). Reportedly, it is hard for him to sleep, and he gets up late (A.R. 300). He 8 checked boxes on the form indicating that his conditions affect his lifting, seeing, 9 memory, completing tasks, concentration, understanding, and following 10 instructions, and Plaintiff claimed that he cannot complete tasks (A.R. 304). 11 However, Plaintiff did not check boxes to indicate that his conditions affect his 12 standing, walking, sitting, kneeling, or stair climbing (A.R. 304). Plaintiff stated 13 that he could shop in stores for groceries twice a month for one hour, could walk 14 two blocks before needing to rest for two minutes, could not pay attention for too 15 long, did not follow written instructions well but did follow spoken instructions 16 well, and did not handle stress or changes in a routine well (A.R. 302, 304-05). 17 Plaintiff said that he was born with Bartter syndrome and claimed he had “been on 18 SSI all his life” (A.R. 306). 19 20 B. Summary of the Medical Record 21 22 The treatment record is relatively sparse. Plaintiff reported primary care 23 treatment with Qazi Medical Group since September of 2015, and with San 24 Gorgonio Memorial Hospital in July of 2020 (A.R. 261-62, 337). The 25 Administration obtained the San Gorgonio Memorial Hospital records (A.R. 414- 26 23), and requested and obtained the Qazi Medical Group records for the period 27 from July of 2020 through February of 2022 (A.R. 376-413, 424-48, 456-67). 28 Although the administrative hearing was not held until August of 2023, there are no 1 medical records post-dating those obtained through the Administration’s initial 2 requests.3 3 4 There are notes for regular doctor’s visits with Qazi Medical Group from 5 June of 2020 through December of 2021, to refill medications and to review lab 6 work related to Plaintiff’s Norco use, renal functioning, and cholesterol levels (A.R. 7 380-413, 428-46, 461-67; see also A.R. 327 (Plaintiff reporting that testing with 8 Qazi Medical Group included only blood tests and EKGs)). Noted diagnoses 9 include Bartter Syndrome, anemia, colon cancer, scoliosis, chronic pain syndrome, 10 hyperlipidemia, lymphadenitis, hypokalemia, hypomagnesemia, vitamin D 11 deficiency, and dyslipidemia, and opioid dependence (uncomplicated) (see, e.g., 12 A.R. 380-99). Plaintiff was taking Norco for the diagnosed chronic pain syndrome, 13 despite his opioid dependence diagnosis, and Plaintiff was also taking medications 14 15 3 Prior to the administrative hearing, Plaintiff provided information concerning his medical treatment since March of 2022. See A.R. 366 (reporting treatment with 16 Qazi Medical Group in April of 2023, and with San Gorgonio Memorial Hospital in 17 March of 2023 for Covid-19/low potassium). Plaintiff’s counsel informed the ALJ by letter dated July 13, 2023, that counsel was “continuing to update medical 18 records based on new information provided by our client” (i.e., for treatment with 19 Qazi Medical Group and San Gorgonio Hospital as reported at A.R. 366), and, if records were not obtained in a timely manner, counsel would request an extension 20 of time to submit records (A.R. 370). At the

hearing more than a month later, the 21 ALJ asked Plaintiff's counsel for the status of counsel's update (A.R. 60 (referencing A.R. 370)). Plaintiff's counsel indicated that there were "no records 22 for the scope" from the hospital, and counsel was having some issues obtaining 23 records from Qazi Medical Group because it has three locations (A.R. 61; but see, e.g., A.R. 376, 381, 425, 456, 462 (treatment notes and the prior requests for 24 records using the same address)). The ALJ gave counsel two additional weeks to 25 submit any updated records, but counsel apparently did not submit any such records. See A.R. 60-61 (admitting Exhibits B1A through B5F at the hearing); 26 A.R. 73-467 (A.R. exhibits consisting of Exhibits B1A through B5F). The ALJ 27 issued her unfavorable decision in October of 2023 – almost two months after the hearing (A.R. 44-53). 28 1 and supplements for Bartter syndrome and other conditions (i.e., Aldactone, 2 Atorvastatin, magnesium, potassium, and vitamin D) (id.). During most visits, 3 Plaintiff requested Norco refills (A.R. 383, 386, 388, 390, 393, 396, 398, 439, 464). 4 The examinations report no abnormal findings, apart from a toe callous, and the 5 notes have no details concerning Plaintiff's pain history or complaints, if any. See 6 A.R. 380, 383, 386, 388, 390, 393, 396, 398, 439, 461, 464 (stating reasons for 7 appointments and general examination findings). Plaintiff reportedly was 8 depressed due to a death in the family and his renal labs had changed in August of 9 2020, but he reportedly was "doing well" with "stable" renal functioning by 10 October of 2020 (A.R. 396-99). He had no complaints in December of 2020 (A.R. 11 393-94). His renal functioning again was stable in February of 2021 (A.R. 390-91). 12 Plaintiff had no new complaints in May of 2021 (A.R. 388-89). 13 14 In July of 2020, Plaintiff went to the emergency room at San Gorgonio 15 Memorial Hospital for chest pain and shortness of breath following an argument 16 (A.R. 415-23). His colon cancer reportedly was in remission (A.R. 415). Physical 17 examination findings were negative for any abnormalities, and Plaintiff had normal 18 strength and sensation (A.R. 415-16). An EKG and chest imaging were normal 19 (A.R. 416-17). His potassium, chloride, and magnesium levels were low (A.R. 20 416). Plaintiff was diagnosed with acute chest pain provoked by a stressful event, 21 hypokalemia, hypomagnesemia, and Bartter syndrome, and Plaintiff was observed 22 to be in stable condition after treatment with aspirin, potassium, and magnesium 23 (A.R. 415, 417). 24 25 Consultative examiner Dr. Christopher Cooper provided a comprehensive 26 psychological evaluation dated September 18, 2021 (A.R. 449-54). Plaintiff 27 complained of depression since childhood, increased significantly after the death of 28 his son in 2001, and attention, memory, and concentration deficits with a history of 1 special education classes and a ninth grade education (A.R. 449-50). Plaintiff was 2 taking no medications for his psychiatric symptoms and had never participated in 3 psychiatric medication management or psychotherapy (A.R. 449). Plaintiff said he 4 had tried to work for two months, but claimed he could not keep up with the pace 5 and had been terminated (A.R. 450). 6 7 On mental status examination, Plaintiff reportedly had a sad mood and 8 congruent affect, diminished immediate and recent memories but intact remote 9 memory, fair fund of knowledge, inability to complete simple calculations, poor 10 attention and concentration, poor abstract thinking, but good judgment (A.R. 450- 11 51).

Psychological testing showed Plaintiff had a full scale IQ of 63, in the 12 extremely low intelligence range, with weakness noted for working memory, 13 extremely low to borderline memory and recall with weakness in immediate 14 memory, and neurological deficits with impaired attention, memory and executive 15 control (A.R. 451-53). Dr. Cooper diagnosed an unspecified depressive disorder 16 with a fair prognosis (A.R. 453). Dr. Cooper opined that Plaintiff would have only 17 mild impairment in his abilities to perform simple and repetitive tasks, accept 18 instructions from supervisors, interact with coworkers and the public, perform work 19 activities on a consistent basis, complete a normal workday/workweek without 20 interruptions from his psychiatric condition, and deal with usual workplaces stress 21 (A.R. 453). According to Dr. Cooper, Plaintiff would have moderate impairment in 22 his ability to perform detailed and complex tasks (A.R. 453). 23 24 State agency doctors reviewed the foregoing records in October of 2021 and 25 February of 2022 (A.R. 88-118). On initial review, the state agency doctor found 26 no changed circumstances to overcome the presumption of continuing non- 27 disability (A.R. 88-102). On initial and reconsideration reviews, the doctors found 28 Plaintiff's chronic kidney disease was severe, his depression was not severe, and 1 opined that Plaintiff was capable of a range of light work consistent with the ALJ's 2 physical residual functional capacity assessment (A.R. 94, 97-99, 110, 113-15). 3 There are no opinions in the record by any examining source regarding Plaintiff's 4 physical abilities or limitations. 5 6 C. The ALJ Stated Legally Sufficient Reasons for Discounting 7 Plaintiff's Subjective Testimony and Statements. 8 9 An ALJ's assessment of a claimant's credibility is entitled to "great weight." 10 *Anderson v. Sullivan*, 914 F.2d 1121, 1124 (9th Cir. 1990); *Nyman v. Heckler*, 779 F.2d 528, 531 (9th Cir. 1985). Where, as here, an ALJ finds that the claimant's 12 medically determinable impairments reasonably could be expected to cause the 13 alleged symptoms (A.R. 50), any discounting of the claimant's complaints must be 14 supported by "specific, cogent" findings. See *Berry v. Astrue*, 622 F.3d 1228, 1234 15 (9th Cir. 2010); *Lester v. Chater*, 81 F.3d 821, 834 (9th Cir. 1995); but see *Smolen v. Chater*, 80 F.3d 1273, 1282-84 (9th Cir. 1996) (indicating that ALJ must offer 17 "specific, clear and convincing" reasons to reject a claimant's testimony where 18 there is no evidence of "malinger"). 19 20 21 4 In the absence of an ALJ's reliance on evidence of "malinger," most recent Ninth Circuit cases have applied the "clear and convincing" standard. See, 22 e.g., *Nerio Mejia v. O'Malley*, 120 F.4th 1360, 1363 (9th Cir. 2024); *Ferguson v. O'Malley*, 95 F.4th 1194, 1197-98 (9th Cir. 2024); *Glanden v. Kijakazi*, 86 F.4th 838, 846 (9th Cir. 2023); *Smartt v. Kijakazi*, 53 F.4th 489, 497 (9th Cir. 2022); 24 *Leon v. Berryhill*, 880 F.3d 1041, 1046 (9th Cir. 2017); see also *Ballard v. Apfel*, 25 2000 WL 1899797, at *2 n.1 (C.D. Cal. Dec. 19, 2000) (collecting earlier cases). In *Ahearn v. Saul*, 988 F.3d 1111, 1116 (9th Cir. 2021), the Ninth Circuit appeared to 26 apply both the "specific, cogent" standard and the "clear and convincing" standard. 27 In the present case, the ALJ's findings are sufficient under either standard, so the distinction between the two standards (if any) is academic. 28 1 Generalized, conclusory findings do not suffice. An ALJ's credibility 2 findings "must be sufficiently specific to allow a reviewing

court to conclude the 3 ALJ rejected the claimant's testimony on permissible grounds and did not 4 arbitrarily discredit the claimant's testimony." *Moisa v. Barnhart*, 367 F.3d 882, 5 885 (9th Cir. 2004) (internal citations and quotations omitted); see *Holohan v. 6 Massanari*, 246 F.3d 1195, 1208 (9th Cir. 2001) (the ALJ must "specifically 7 identify the testimony [the ALJ] finds not to be credible and must explain what 8 evidence undermines the testimony"); *Smolen v. Chater*, 80 F.3d at 1284 ("The 9 ALJ must state specifically which symptom testimony is not credible and what facts 10 in the record lead to that conclusion."); see also SSR 96-7p (explaining how to 11 assess a claimant's credibility), superseded, SSR 16-3p (eff. Mar. 28, 2016).5 12 13 In the present case, the ALJ summarized Plaintiff's testimony and statements 14 and the medical evidence, which the ALJ found only "partially support[ed]" 15 Plaintiff's statements regarding the alleged intensity, persistence, and limiting 16 effects of his symptoms (A.R. 49-51). The ALJ reasoned that: (1) the "positive 17 objective clinical and diagnostic findings . . . [did] not support more restrictive 18 functional limitations than those [the ALJ] assessed" (e.g., physical examinations 19 showed Plaintiff was well developed, well nourished, had clear lungs, no edema, 20 full range of motion, and normal heart functioning, and objective findings otherwise 21 were normal) (A.R. 50 (referencing A.R. 376-423, 449-67)); (2) Plaintiff had not 22 23 5 Social Security Rulings are binding on the Administration. See *Terry v. Sullivan*, 903 F.2d 1273, 1275 n.1 (9th Cir. 1990). The appropriate analysis under 24 the superseding SSR is substantially the same as the analysis under the superseded 25 SSR. See *R.P. v. Colvin*, 2016 WL 7042259, at *9 n.7 (E.D. Cal. Dec. 5, 2016) (stating that SSR 16-3p "implemented a change in diction rather than substance") 26 (citations omitted); see also *Trevizo v. Berryhill*, 871 F.3d 664, 678 n.5 (9th Cir. 27 2017) (suggesting that SSR 16-3p "makes clear what our precedent already required"). 28 1 received the type of medical treatment one would expect for a totally disabled 2 person (i.e., his treatment was "essentially routine and conservative in nature," and 3 the lack of more aggressive treatment suggested Plaintiff's symptoms were not as 4 severe as he alleged) (A.R. 49); and (3) Plaintiff's allegations were greater than 5 expected in light of the objective medical evidence which suggested Plaintiff's 6 medications were "generally successful" in controlling his symptoms (A.R. 49-50 7 (citing A.R. 390, 393, 396, 430 (notes stating that Plaintiff was doing well, had no 8 new complaints, was continued on the same medication regimen, and/or had stable 9 renal functioning))). In the context of the entire record, the ALJ's stated reasoning 10 is legally sufficient. 11 12 First, an ALJ permissibly may rely in part on a lack of supporting medical 13 evidence in discounting a claimant's allegations of disabling symptomatology. See 14 *Burch v. Barnhart*, 400 F.3d 676, 681 (9th Cir. 2005) ("Although a lack of medical 15 evidence cannot form the sole basis for discounting pain testimony, it is a factor the 16 ALJ can consider in his [or her] credibility analysis."); *Rollins v. Massanari*, 261 17 F.3d 853, 857 (9th Cir. 2001) (same). Further, "[w]hen objective medical evidence 18 in the record is inconsistent with the claimant's subjective testimony, the ALJ may 19 indeed weigh it as undercutting such testimony." *Smartt v. Kijakazi*, 53 F.4th 489, 20 498 (9th Cir. 2022) ("Smartt"); see *Carmickle v. Comm'r*, 533 F.3d 1155, 1161 21

(9th Cir. 2008) (“Contradiction with the medical record is a sufficient basis for 22 rejecting the claimant's subjective testimony”); see also SSR 16-3p (“[O]bjective 23 medical evidence is a useful indicator to help make reasonable conclusions about 24 the intensity and persistence of symptoms, including the effects those symptoms 25 may have on the ability to perform work-related activities. . .”). In the present case, 26 the ALJ reasonably observed that the medical evidence, including examination 27 findings, imaging studies and medical opinions, did not support Plaintiff’s 28 subjective complaints. See *id.*; see also *Kitchen v. Kijakazi*, 82 F.4th 732, 739 (9th

1 Cir. 2023) (finding adequate ALJ’s reasoning for discounting subjective complaints

2 as contradicted by the medical opinions and evidence suggesting that claimant’s 3 impairments could be controlled effectively with medications). 4 5 Second, a limited or conservative course of treatment sometimes can justify 6 the discounting of a claimant’s testimony. See, e.g., *Parra v. Astrue*, 481 F.3d 742, 7 751 (9th Cir. 2007), cert. denied, 552 U.S. 1141 (2008) (“[E]vidence of 8 ‘conservative treatment’ is sufficient to discount a claimant’s testimony regarding 9 severity of an impairment.”) (citation omitted); *Meanel v. Apfel*, 172 F.3d 1111, 10 1114 (9th Cir. 1999) (in assessing the credibility of a claimant’s pain testimony, 11 the Administration properly may consider the claimant’s “minimal conservative 12 treatment” and the treating physician’s failure to prescribe (and the claimant’s 13 failure to request) medical treatment commensurate with “supposedly excruciating 14 pain”) (citing *Bunnell v. Sullivan*, 947 F.2d 341, 346 (9th Cir. 1991) (en banc)); 15 *Matthews v. Shalala*, 10 F.3d 678, 679-80 (9th Cir. 1993) (permissible credibility 16 factors in assessing pain testimony include limited treatment and minimal use of 17 medications). As the ALJ concluded, the record here does not appear to reflect the 18 type of treatment one would expect for a person suffering the disabling severity of 19 symptoms claimed by Plaintiff. For example, (1) during most of the alleged 20 disability period, there was an absence of regular medical visits to monitor 21 Plaintiff’s conditions; and (2) although Plaintiff was prescribed Norco for his 22 diagnosed chronic pain syndrome and medications and supplements for his Bartter 23 syndrome and other conditions, there is no other reported treatment for his 24 assertedly disabling conditions, and there are no referrals for more aggressive 25 treatment by specialists (e.g., epidural injections, nerve blocks, physical therapy, or 26 muscle relaxants by a pain management specialist, or closer management by a 27 kidney disease specialist). See *Johnson v. Shalala*, 60 F.3d 1428, 1434 (9th Cir. 28 1995) (absence of treatment for back pain during half of the alleged disability 1 period, and evidence of only “conservative treatment” when the claimant finally 2 sought treatment, sufficient to discount claimant’s testimony); see also *Smartt*, 53 3 F.4th at 493, 500 (ALJ’s reasoning was sufficient to discount claimant’s testimony 4 where ALJ cited “documented evidence of [post-surgical] ‘conservative treatment,’ 5 including physical therapy, temporary use of a neck brace and wheelchair, and 6 ongoing pain medication” (elsewhere described as “chronic opioid use”), and 7 evidence suggested overall improvement with treatment); compare *Boggs v. 8 Kijakazi*, 2022 WL 1657022, at *1 (9th Cir. May 25, 2022) (finding evidence did 9 not support

conclusion that treatment was routine and conservative where claimant 10 had a “steady regimen” of opioids such as hydrocodone for years, his symptoms 11 were only managed as long as the claimant remained sedentary, and treatment notes 12 reflected severe pain and limitations despite use of pain medications). Additionally, 13 and significantly, the state agency physicians who reviewed the record found that 14 Plaintiff’s medication treatment was not consistent with his alleged symptom- 15 related limitations (A.R. 96, 112). 16 17 Third, consistent with the foregoing authorities, the ALJ observed that 18 Plaintiff’s treatment (which included Norco) “would normally weigh somewhat in 19 [Plaintiff’s] favor,” 6 but the record suggested that Plaintiff’s treatment was 20 successful in controlling his symptoms (A.R. 49-50). “[E]vidence of medical 21 treatment successfully relieving symptoms can undermine a claim of disability.” 22 *Wellington v. Berryhill*, 878 F.3d 867, 876 (9th Cir. 2017); see also *Smartt*, 53 23 F.4th at 500; *Lapuzz v. Berryhill*, 740 Fed. App’x 596, 597 (9th Cir. 2018) 24 25 6 Indeed, this Court previously has stated that consistent treatment with narcotic pain medications (including Norco) cannot properly be characterized as 26 “conservative” within the meaning of Ninth Circuit jurisprudence. See *Brandi T. v. 27 Kijakazi*, 2022 WL 16894519, at *4 (C.D. Cal. May 24, 2022) (collecting cases pre-*Smartt* and finding that regular treatment, taking prescription narcotic pain 28 1 (“effectiveness of medication is a clear and convincing reason to discredit claimant 2 testimony”) (citing *Tommasetti v. Astrue*, 533 F.3d 1035, 1039-40 (9th Cir. 2008)); 3 *Warre v. Comm’r*, 439 F.3d 1001, 1006 (9th Cir. 2006) (“Impairments that can be 4 controlled effectively with medication are not disabling for the purpose of 5 determining eligibility for SSI benefits”); see generally 20 C.F.R. § 416.929(c) 6 (type and effectiveness of treatment are factors to consider when evaluating 7 symptom allegations). Detail in treatment records cited by the ALJ reflects that 8 Plaintiff was doing well, his renal functioning was stable, he had no complaints, or 9 no new complaints, and his treatment regimen did not change (A.R. 391-99, 439- 10 40, 461-65). 11 12 Plaintiff faults the ALJ’s decision for an alleged lack of specificity. See 13 Plaintiff’s Brief, pp. 6-8. The ALJ arguably did not specifically discuss certain of 14 Plaintiff’s particular asserted limitations (i.e., Plaintiff’s testimony that he 15 supposedly cannot stand for more than four to six minutes at a time or Plaintiff’s 16 report that he supposedly can walk for only two blocks before needing to rest for 17 two minutes) (A.R. 49-51). However, given the adequacy of the ALJ’s stated 18 reasoning discussed above, and given the sparse medical record, the ALJ’s arguable 19 lack of more specific discussion of particular subjective assertions does not suggest 20 that the ALJ arbitrarily discounted Plaintiff’s testimony or statements. The ALJ 21 expressly stated that she had “considered all of [Plaintiff’s] subjective complaints, 22 including the subjective complaints from the hearing testimony and written 23 submissions” (A.R. 49). Further, there is no support in the medical record for 24 Plaintiff’s extreme asserted standing and walking limitations – no support in the 25 recorded complaints of Plaintiff, the observations of physicians, or the treatments 26 /// 27 /// 28 /// 1 prescribed.7 An ALJ need not “perform a line-by-line exegesis of the claimant’s 2 testimony.” *Lambert v. Saul*, 980 F.3d 1266, 1277 (9th Cir. 2020); see also *Smartt*, 3 53 F.4th at

499 (in discounting testimony, an ALJ must “show his work” with 4 rationale that is “clear enough that it has the power to convince”). 5 6 Because the ALJ’s credibility findings were sufficiently specific to allow this 7 Court to conclude that the ALJ rejected Plaintiff’s testimony on permissible 8 grounds, *Moisa v. Barnhart*, 367 F.3d at 885, the Court defers to the ALJ’s 9 credibility findings. See *Lasich v. Astrue*, 252 Fed. App’x 823, 825 (9th Cir. 2007) 10 (court will defer to ALJ’s credibility determination when the proper process is used 11 and proper reasons for the decision are provided); accord *Flaten v. Sec’y of Health 12 & Human Svcs.*, 44 F.3d 1453, 1464 (9th Cir. 1995). Deference to the ALJ’s 13 credibility findings requires affirmance of the administrative decision in the present 14 case. 15 /// 16 /// 17 /// 18 /// 19 20 7 As a point of comparison, when Plaintiff was deemed disabled in 2009, the Administration found that Plaintiff had been in and out of emergency treatment for 21 exacerbations of his Bartter syndrome (A.R. 79). Then, Plaintiff’s potassium levels 22 and electrolyte imbalances were causing him nausea, dizziness, and weakness, and his weight was fluctuating between 98 and 100 pounds (A.R. 79). The current 23 treatment record does not reflect the symptoms, frequency/intensity of treatment, or 24 the weight issues Plaintiff previously endured. See A.R. 380, 383, 386, 388, 390, 393, 396, 398, 415, 439, 461, 464 (reporting weights from 160 to 167 pounds). 25 8 The Court should not and does not determine the credibility of Plaintiff’s 26 testimony and statements concerning his subjective symptomatology. Absent legal 27 error, it is for the Administration, and not this Court, to do so. See *Magallanes v. Bowen*, 881 F.2d 747, 750, 755-56 (9th Cir. 1989). 28

1 CONCLUSION

2 3 For the foregoing reasons, 9 judgment shall be entered in favor of the 4 Defendant and the action shall be dismissed with prejudice. 5 6 LET JUDGMENT BE ENTERED ACCORDINGLY.

7 8 DATED: May 21, 2025 9 _____ 10

CHARLES F. EICK

11 UNITED STATES MAGISTRATE JUDGE

12 13 14 15 16 17 18 19 20 21 22 23 24 25 9 Neither Plaintiff’s arguments nor the circumstances of this case show any 26 “substantial likelihood of prejudice” resulting from any error allegedly committed 27 by the Administration. See generally *McLeod v. Astrue*, 640 F.3d 881, 887-88 (9th Cir. 2011). 28