

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

**Khreistina Marshall v. Commissioner of Social Security
Administration**

Marshall · No. CV-24-03155-PHX-MTL · Decided January 9, 2026

SUMMARY

The United States District Court for the District of Arizona reviewed the denial of Khreistina Marshall’s applications for SSDI and SSI benefits. The court held that the Administrative Law Judge provided specific, clear, and convincing reasons supported by substantial evidence for discounting Marshall’s symptom testimony, including inconsistencies with medical records and daily activities. The court affirmed the ALJ’s decision and directed the Clerk to enter final judgment and close the case.

CASE DETAILS

COURT	United States District Court for the District of Arizona
WRITING FOR THE COURT	Michael T. Liburdi
JURISDICTION	United States District Court for the District of Arizona
DECIDED	January 9, 2026
DOCKET	CV-24-03155-PHX-MTL
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff sought judicial review under 42 U.S.C. § 405(g) of the Commissioner of Social Security's denial of her applications for Title II SSDI and Title XVI SSI benefits.
STANDARD OF REVIEW	The district court may set aside the ALJ's determination only if it is unsupported by substantial evidence or based on legal error. The court considers the entire record and upholds an ALJ's conclusion when the evidence is susceptible to more than one rational interpretation, one of which supports the decision.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Khreistina Marshall v. Commissioner of Social Security Administration

TOPICS

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the ALJ provided specific, clear, and convincing reasons supported by substantial evidence for discounting Marshall's subjective symptom testimony based on inconsistencies with the objective medical record.
2. Whether the ALJ properly relied on Marshall's activities of daily living as inconsistent with the alleged severity of her symptoms.
3. Whether any error in evaluating Marshall's symptom testimony was harmless in light of other reasons supporting the ALJ's nondisability determination.

HOLDINGS

1. The ALJ properly relied on inconsistencies between Marshall's subjective symptom testimony and the objective medical evidence as one specific, clear, and convincing reason to discount the alleged severity of her symptoms.
2. The ALJ properly relied on Marshall's detailed and regularly performed activities of daily living, including childcare, transportation, shopping, driving, and caring for others, as evidence that her functional limitations were less severe than alleged.
3. Any error in the ALJ's consideration of the objective medical evidence or daily activities would have been harmless because the ALJ identified additional unchallenged reasons supporting the nondisability determination, including Marshall's positive response to treatment and reports of more stable moods.

KEY QUOTATIONS

"The Court may set aside the ALJ's determination only if it is not supported by substantial evidence or if it is based on legal error." (at 2)

"Therefore, the ALJ properly relied on the objective medical record as one clear and convincing reason to discount Marshall's symptom testimony." (at 5)

"Substantial evidence supports the ALJ's conclusion that Marshall's daily activities contradicted her testimony about the severity of her limitations." (at 7)

FACTUAL BACKGROUND

Marshall alleged disability based principally on anxiety disorder, depressive disorder, and PTSD. The ALJ found that these impairments were severe but did not meet or medically equal a listed impairment, and assessed an RFC for work at all exertional levels with significant nonexertional limitations involving simple tasks, limited decision-making, no production rates or hourly quotas, and limited interaction with coworkers and the public. Marshall testified to severe and persistent symptoms, but the medical records repeatedly described her as

cooperative, cognitively intact, and appropriately groomed, and her reported activities included caring for three children, transporting them, shopping, driving, and caring for others. Relying on the RFC and vocational-expert testimony, the ALJ found that she could perform jobs existing in significant numbers in the national economy.

PROCEDURAL HISTORY

Marshall applied for SSDI and SSI benefits on January 6, 2022, alleging disability beginning June 1, 2021. The applications were denied initially and on reconsideration; following a telephonic hearing, the ALJ issued an unfavorable decision on May 7, 2024. The Appeals Council denied review on September 13, 2024, and Marshall filed this action. The district court reviewed the administrative record and briefs and affirmed the ALJ's decision.

DISPOSITION

affirmed

CASES CITED

- Lewis v. Apfel, 236 F.3d 503, 517 n.13 (9th Cir. 2001)
- Orn v. Astrue, 495 F.3d 625, 630 (9th Cir. 2007)
- Thomas v. Barnhart, 278 F.3d 947, 954, 958-59 (9th Cir. 2002)
- Biestek v. Berryhill, 587 U.S. 97, 108 (2019)
- Thomas v. CalPortland Co., 993 F.3d 1204, 1208 (9th Cir. 2021)
- Tackett v. Apfel, 180 F.3d 1094, 1098 (9th Cir. 1999)
- Garrison v. Colvin, 759 F.3d 995, 1014-15 (9th Cir. 2014)
- Tristan v. Comm’r of Soc. Sec. Admin., No. CV-20-02240-PHX-DWL, 2022 WL 1707953, at *6 (D. Ariz. May 27, 2022)
- Lingenfelter v. Astrue, 504 F.3d 1028, 1035-36 (9th Cir. 2007)
- Smolen v. Chater, 80 F.3d 1273, 1281 (9th Cir. 1996)
- Burch v. Barnhart, 400 F.3d 676, 680 (9th Cir. 2005)
- Moore v. Comm’r Soc. Sec. Admin., 278 F.3d 920, 924 (9th Cir. 2002)
- Fair v. Bowen, 885 F.2d 597, 603-04 (9th Cir. 1989)
- Tommasetti v. Astrue, 533 F.3d 1035, 1038 (9th Cir. 2008)
- Smartt v. Kijakazi, 53 F.4th 489, 498 (9th Cir. 2022)
- Ferguson v. O’Malley, 95 F.4th 1194, 1200 (9th Cir. 2024)
- Trevizo v. Berryhill, 871 F.3d 664, 669, 672-73, 676, 682-83 (9th Cir. 2017)
- Molina v. Astrue, 674 F.3d 1104, 1113 (9th Cir. 2012)
- Indep. Towers of Wash. v. Washington, 350 F.3d 925, 929 (9th Cir. 2003)

OPINION

Commissioner of Social Security Administration, 13 Defendant. 14 15 At issue is the Social Security Administration's denial of Plaintiff Khreistina 16 Marshall's application for Title II Disability Insurance ("SSDI") and Title XVI 17 Supplemental Security Income ("SSI") benefits under the Social Security Act.

Marshall 18 filed a complaint and an opening brief with the Court seeking judicial review of those 19 denials. (Docs. 1, 11.) Defendant Commissioner of the Social Security Administration 20 ("Commissioner") responded (Doc. 14), and Marshall replied (Doc. 15).

Having reviewed 21 the briefs (Docs. 11, 14, 15) and the administrative record ("A.R.") (Doc. 10), the Court 22 affirms the Administrative Law Judge's ("ALJ") decision. 23 I. BACKGROUND 24 A. Procedural History 25 On January 6, 2022, Marshall applied for both SSI and SSDI benefits with an alleged 26 onset date of June 1, 2021. (A.R. at 233, 241.) Both claims were first denied on April 6, 27 2022, and denied after reconsideration on February 24, 2023.

(Id. at 122, 127.) On April 28 10, 2023, the Commissioner received Marshall's prompt written request for a hearing 1 before the ALJ. (Id. at 143.) The ALJ held a telephonic hearing on April 9, 2024, during 2 which Marshall, her attorney, and a vocational expert offered testimony. (Id. at 44.)

On 3 May 7, 2024, the ALJ denied Marshall's applications and issued an unfavorable decision. 4 (Id. at 17-37.) Marshall then filed a request for review with the Appeals Council, which it 5 denied on September 13, 2024. (Id. at 1-3.) Now Marshall asks the Court to review the 6 denial pursuant to 42 U.S.C. § 405(g). (Doc. 1 at 1-2.) 7 B. ALJ Determination 8 After weighing objective medical evidence, opinion testimony, and Marshall's 9 subjective symptom testimony, the ALJ evaluated her disability claim based on the 10 following severe impairments: (1) anxiety disorder, (2) depressive disorder, and (3) PTSD.

11 (A.R. at 23.) 12 The ALJ found that Marshall "d[id] not have an impairment or combination of 13 impairments that meets or medically equals the severity of one of the listed impairments in 14 20 C.F.R. Part 404, Subpart P, Appendix 1." (Id.) Next, the ALJ determined Marshall's 15 residual functional capacity ("RFC").* The ALJ found she had the "residual functional 16 capacity to perform a full range of work at all exertional levels but with... nonexertional 17 limitations" that limited her to carrying out simple tasks and instructions with little if any 18 decision making, without production rates or hourly quotas, and without regular 19 cooperation with coworkers or interactions with the public.

(Id. at 25-26.) Based on this 20 RFC and the testimony of the vocational expert, the ALJ found that Marshall could perform 21 jobs that existed in significant numbers in the national economy, including industrial 22 cleaner, housekeeping cleaner, and routing clerk. (Id. at 36-37, 71-76.)

Thus, the ALJ 23 concluded that Marshall was not disabled from the time of her application according 24 to § 1614(a)(3)(A) of the Social Security Act. (Id. at 37.) 25 II. LEGAL

STANDARD 26 The district court reviews only those issues raised by the party challenging the ALJ's 27 decision. See *Lewis v. Apfel*, 236 F.3d 503, 517 n.13 (9th Cir. 2001).

The Court may set 28 * Residual functional capacity refers to the most a claimant can do in a work setting despite his or her limitations. 20 C.F.R. § 416.945(a)(1). 1 aside the ALJ's determination only if it is not supported by substantial evidence or if it is 2 based on legal error. *Orn v. Astrue*, 495 F.3d 625, 630 (9th Cir. 2007). Substantial evidence 3 is relevant evidence that a reasonable person might accept as adequate to support a 4 conclusion considering the entire record.

Id. To determine whether substantial evidence 5 supports a decision, the Court must consider the entire record and may not affirm simply 6 by isolating a "specific quantum of supporting evidence." *Id.* (citation omitted). Generally, 7 "[w]here the evidence is susceptible to more than one rational interpretation, one of which 8 supports the ALJ's decision, the ALJ's conclusion must be upheld." *Thomas v. Barnhart*, 9 278 F.3d 947, 954 (9th Cir.

2002). The substantial evidence threshold "defers to the 10 presiding ALJ, who has seen the hearing up close." *Biestek v. Berryhill*, 587 U.S. 97, 108 11 (2019); see also *Thomas v. CalPortland Co.*, 993 F.3d 1204, 1208 (9th Cir. 2021) (noting 12 substantial evidence "is an extremely deferential standard"). 13 To determine whether a claimant is disabled, the ALJ follows a five-step process.

14 See 20 C.F.R. § 416.920(a)(4). The claimant bears the burden of proof on the first four 15 steps, but the burden shifts to the Commissioner at step five. *Tackett v. Apfel*, 180 F.3d 16 1094, 1098 (9th Cir. 1999). At the first step, the ALJ determines whether the claimant is 17 presently engaging in substantial gainful activity. 20 C.F.R. § 416.920(a)(4)(i), (b).

If so, 18 the claimant is not disabled, and the inquiry ends. *Id.* If the claimant is not working in a 19 substantially gainful activity, then the claimant's case proceeds to step two. *Id.* At step two, 20 the ALJ determines whether the claimant has a "severe" medically determinable physical 21 or mental impairment. *Id.* § 416.920(a)(4)(ii), (c). If not, the claimant is not disabled, and 22 the inquiry ends.

Id. If the claimant's impairment is severe, then the inquiry proceeds to 23 step three. See *id.* At step three, the ALJ considers whether the claimant's impairment or 24 combination of impairments meets or medically equals an impairment listed in Appendix 1 25 to Subpart P of Part 404. *Id.* § 416.920(a)(4)(iii). If so, the claimant is automatically found 26 to be disabled.

Id. If not, then the ALJ assesses the claimant's RFC to determine whether 27 the claimant is still capable of performing past relevant work before moving to step four. 28 *Id.* § 416.920(a)(4)(iv), (e)-(f). At step four, the ALJ must determine whether the claimant 1 retains the RFC to perform the requirements of past relevant work. *Id.* If so, the claimant 2 is not disabled, and the inquiry ends.

Id. If not, the ALJ proceeds to the fifth and final step, 3 where the ALJ determines whether the claimant can perform any other work in the national 4 economy based on the claimant's RFC, age, education, and work experience. Id. 5 § 416.920(a)(4)(v), (g). If so, the claimant is not disabled; if not, the claimant is disabled. 6 Id. 7 III. DISCUSSION 8 Marshall raises two facets of the same issue before the Court.

She argues that the 9 ALJ committed harmful error by (1) discounting her symptom testimony without 10 articulating clear and convincing reasons grounded in objective evidence and (2) finding 11 that Marshall's activities of daily living are inconsistent with her symptom testimony, 12 rendering the ALJ's reasons for discounting the testimony invalid. (Doc. 11 at 11, 15.)

In 13 response, the Commissioner argues that the ALJ properly evaluated Plaintiff's symptom 14 testimony and that the findings were supported by substantial evidence in the record. (Doc. 15 14 at 4.) 16 To evaluate a claimant's symptom testimony, an ALJ engages in a two-step 17 analysis. *Garrison v. Colvin*, 759 F.3d 995, 1014 (9th Cir. 2014).

First, the ALJ must 18 determine whether the claimant has shown sufficient "objective medical evidence of an 19 impairment that 'could reasonably be expected to produce the pain or symptoms alleged.'" 20 *Tristan v. Comm'r of Soc. Sec. Admin.*, No. CV-20-02240-PHX-DWL, 2022 WL 1707953, 21 at *6 (D. Ariz. May 27, 2022) (quoting *Lingenfelter v. Astrue*, 504 F.3d 1028, 1035-36 22 (9th Cir.

2007)). Then, the ALJ must evaluate the claimant's statements in the context of 23 the objective medical evidence and other evidence in the record and "can reject the 24 claimant's testimony about the severity of her symptoms only by offering specific, clear 25 and convincing reasons for doing so." 20 C.F.R. § 416.929(c)(2)-(3); *Garrison*, 759 F.3d 26 at 1014-15 (quoting *Smolen v. Chater*, 80 F.3d 1273, 1281 (9th Cir.

1996)). When 27 reviewing this objective medical testimony, "an ALJ may not reject a claimant's subjective 28 complaints based solely on a lack of medical evidence to fully corroborate the alleged 1 severity of pain." *Burch v. Barnhart*, 400 F.3d 676, 680 (9th Cir. 2005).

Although the "clear 2 and convincing standard is the most demanding required in Social Security cases," 3 *Garrison*, 759 F.3d at 1015 (quoting *Moore v. Comm'r Soc. Sec. Admin.*, 278 F.3d 920, 4 924 (9th Cir. 2002)), the ALJ need not "believe every allegation of disabling pain." *Fair v. Bowen*, 885 F.2d 597, 603 (9th Cir. 1989), superseded on other grounds by 20 C.F.R. 6 § 404.1502(a).

If "the evidence is susceptible to more than one rational interpretation," the 7 Court will uphold the ALJ's conclusion. *Tommasetti v. Astrue*, 533 F.3d 1035, 1038 (9th 8 Cir. 2008), superseded on other grounds by 20 C.F.R. § 404.1502(a). 9 When assessing the claimant's credibility, the ALJ may consider "inconsistencies 10 either in [the] claimant's testimony or between her testimony

and her conduct, claimant's 11 daily activities, her work record, and testimony from physicians and third parties 12 concerning the nature, severity, and effect of the symptoms of which [the] claimant 13 complains." Thomas, 278 F.3d at 958-59 (citation modified).

Should the district court find 14 that the ALJ's specific, clear, and convincing reasons are supported by substantial 15 evidence, the court may not second guess the ALJ's judgment and must affirm the ALJ's 16 decision. See *Fair*, 885 F.2d at 604. 17 On the first step, the ALJ determined that Marshall's impairments could reasonably 18 be expected to cause her alleged symptoms.

(A.R. at 27.) On the second step, however, the 19 ALJ determined that Marshall's "statements concerning the intensity, persistence and 20 limiting effect of these symptoms [could not] reasonably be accepted as sufficiently 21 consistent with the medical evidence and other evidence in the record." (Id.) 22 A. Consistency with Marshall's Medical Records 23 The ALJ concluded that "[n]o objective evidence justifies a conclusion that 24 [Marshall] would be unable to persist at [her current] level of activity" in an employment 25 setting.

(Id. at 35.) Marshall argues that the ALJ "cherry-picked" evidence to support its 26 reasons for discounting her symptom testimony, ignoring the waxing and waning nature of 27 her impairments. (Doc. 11 at 11-12.) 28 The ALJ assessed the medical record regarding Marshall's anxiety, depression, and 1 PTSD, noting several inconsistencies between Marshall's subjective testimony and the 2 objective medical findings.

For example, Marshall reported that she was experiencing 3 worse symptoms at her hearing than she had experienced before her hospitalization. (A.R. 4 at 66.) Marshall was hospitalized for two weeks in June 2021 for a mental breakdown. (Id. 5 at 404-63.) During her hospitalization, practitioners noted her sad mood, flat affect, and 6 occasional evidence of psychotic processes or hallucinations.

(Id. at 425, 432, 435, 437, 7 439, 441, 443, 445, 447, 449, 451.) But at all times during her hospitalization and 8 afterwards, Marshall's practitioners described her as polite and cooperative without 9 impairments to her cognition, communication, memory, or attention. (Id. at 426, 432, 435, 10 437, 439, 441, 443, 445, 447, 449, 451, 453, 455, 457, 459.) Marshall herself often reported 11 her moods as more stable after hospitalization and indicated the greatest fluctuations when 12 she did not take her medication.

(Compare, e.g., id. at 487, with id. at 482.) Moreover, 13 despite Marshall's testimony at her hearing, at no point was she hospitalized a second time. 14 (Id. at 32.) 15 Furthermore, the ALJ repeatedly pointed to objective evidence in the medical record 16 that was inconsistent with Marshall's symptom testimony regarding her mood swings and 17 motivation.

The ALJ noted twenty-five instances in Marshall's treatment history when her 18 providers described her cooperation, cognition, memory, and attention as within normal 19 limits during the mental status exam. (Id. at 27-32.)

Thus, the ALJ found that Marshall's 20 testimony about the pervasive, consistent nature of her symptoms were not sufficiently 21 consistent with her medical record. 22 Having reviewed the record, the Court finds that substantial evidence supports the 23 ALJ's finding that Marshall's symptom testimony was not sufficiently consistent with the 24 objective medical record. "When objective medical evidence in the record is inconsistent 25 with the claimant's subjective testimony, the ALJ may indeed weigh it as undercutting such 26 testimony." *Smartt v. Kijakazi*, 53 F.4th 489, 498 (9th Cir.

2022). An ALJ "cannot 27 effectively render a claimant's subjective symptom testimony superfluous by demanding 28 positive objective medical evidence fully corroborating every allegation within the 1 subjective testimony." *Ferguson v. O'Malley*, 95 F.4th 1194, 1200 (9th Cir. 2024) (internal 2 quotation marks omitted).

Here, the ALJ took into account the limitations alleged but 3 tempered his understanding of the severity of Marshall's symptoms based on objective 4 medical evidence. Taken together with the objective medical evidence, Marshall's 5 subjective symptom testimony could reasonably suggest that Marshall's impairments 6 varied such that she experienced severe limitations but swung back to a cooperative, 7 pleasant, and cognitively appropriate mood at most appointments.

But the ALJ's finding 8 that Marshall's consistently appropriate grooming, cooperation, and cognitive functionality 9 over the course of many appointments suggested that her impairments were less severe 10 than alleged was also reasonable. Marshall asks the Court to adopt an alternate reading, but 11 between two reasonable interpretations, the Court will uphold the ALJ's determination.

12 *Tommasetti*, 533 F.3d at 1038. Therefore, the ALJ properly relied on the objective medical 13 record as one clear and convincing reason to discount Marshall's symptom testimony. 14 B. Consistency with Activities of Daily Living 15 The ALJ also determined that Marshall's testimony about her activities of daily 16 living contradicted her claims about "the intensity, persistence, and limiting effects of her 17 symptoms." (A.R. at 27.)

Daily activities support an adverse credibility finding if the 18 claimant can "spend a substantial part of his day engaged in pursuits involving the 19 performance of physical functions that are transferable to a work setting...." *Fair*, 885 20 F.2d at 603. "Even where those activities suggest some difficulty functioning, they may be 21 grounds for discrediting the claimant's testimony to the extent that they contradict claims 22 of a totally debilitating impairment." *Molina v. Astrue*, 674 F.3d 1104, 1113 (9th Cir.

23 2012). When an ALJ rationally interprets a claimant's daily activities—even if there is 24 more than one rational interpretation—the decision will be upheld. *Burch*, 400 F.3d at 680. 25 Here, the ALJ determined that Marshall's self-reported activities of daily living 26 were not consistent with the severity of the symptoms she alleged. (A.R. at 33.)

The ALJ 27 considered Marshall's testimony and subjective reports that she maintained regular 28 activities which included caring for three children, taking the children to school, attending 1 parent-teacher conferences, going to the park, driving, shopping, and going out to eat. (Id. 2 at 24-25.) Marshall also testified that she cared for her mother while her mother was ill and 3 advocated to gain custody of her boyfriend's son.

(Id. at 1305, 1358.) Additionally, the 4 ALJ also noted that despite missing medication "several times a week," that Marshall 5 continued her daily activities and "generally indicated she was doing alright." (Id. at 32.) 6 While Marshall may have preferred a more nuanced explanation, the ALJ adequately 7 considered Marshall's ability to engage in these activities based on her anxiety, depression, 8 and PTSD.

(Id. at 24-25.) 9 Marshall cites *Trevizo v. Berryhill*, 871 F.3d 664, 682 (9th Cir. 2017), to suggest 10 that the ALJ improperly considered her childcare activities as inconsistent with her 11 symptom testimony, but this case is distinguishable.

In *Trevizo*, the claimant suffered 12 severe psoriasis, diabetes, and psoriatic arthritis, among other ailments. Id. at 669. She 13 often took naps throughout the day, took several showers to alleviate itchiness and odors, 14 and rested as necessary. Id. at 672-73. That claimant also cared for three foster children, 15 all under age eight. Id. at 673. But that ALJ failed to develop the record to establish what 16 caring for those children entailed, citing only "one-off events," like transporting the 17 children to doctor's appointments or attending foster hearings telephonically when 18 necessary.

Id. at 676. The *Trevizo* court held that the ALJ's reasons for discounting 19 symptom testimony could not rest on such dearth of detail. Id. at 683. 20 By contrast, the ALJ here inquired into both the details and frequency of Marshall's 21 childcare duties.

For example, Marshall testified that she cared for others in her life. (A.R. 22 58.) The ALJ then asked, "What do you do for the people around you?" (Id.) Marshall 23 stated that she took her children to school, picked them up, danced with them when she felt 24 able, did their laundry, and tried to cook healthy meals for them. (Id. at 59.)

As such, 25 Marshall's daily activities—including childcare—served as appropriate context for 26 assessing her credibility, and the ALJ properly relied on them in determining that her 27 functionality was greater than her testimony indicated. See, e.g., *Burch*, 400 F.3d at 680 28

(upholding an ALJ's determination that a claimant's ability "to care for her personal needs, 1 || cook, clean and shop 'suggest[ed] that she [was] quite functional'" (citation omitted)).

2|| Substantial evidence supports the ALJ's conclusion that Marshall's daily activities 3 || contradicted her testimony about the severity of her limitations. Therefore, the ALJ offered 4|| specific, clear and convincing reasons to discount Marshall's symptom testimony. 5 Even if the foregoing reasons were insufficient, any error would be harmless || because the ALJ offered other clear and convincing reasons for discounting Marshall's || symptom testimony beyond Marshall's claims.

Courts can only consider claims actually 8 || raised by a plaintiff. *Lewis*, 236 F.3d at 517 n.13; *Indep. Towers of Wash. v. Washington*, 9|| 350 F.3d 925, 929 (9th Cir. 2003). Here, Marshall only contested the ALJ's interpretation || of her symptom testimony based on the objective medical evidence and her activities of daily living. (Doc. 11.) But the ALJ raised several other bases for his findings that she was || not disabled, namely, her positive response to treatment and her statements to medical 13 || providers that she had more stable moods.

(A.R. at 32.) As such, the ALJ would have come to the same conclusion with or without the above findings. Although the Court finds no 15 || error in the ALJ's conclusions, any such error relative to Marshall's claims would have || been harmless. IV. CONCLUSION 18 Accordingly, 19 IT IS ORDERED affirming the May 7, 2024, decision by the Administrative Law 20 || Judge Ud. at 17-37).

21 IT IS FURTHER ORDERED directing the Clerk of Court to enter final judgment || consistent with this Order and close this case. 23 Dated this 9th day of January, 2026. 24 76 Michael T. Liburdi 27 United States District Judge 28 -9-