

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Vivianna H. v. Commissioner of Social Security

Vivianna H. · No. 2:25-cv-01130-JWH(E) · Decided September 4, 2025

SUMMARY

The United States District Court for the Central District of California accepted and adopted a magistrate judge's Report and Recommendation recommending dismissal of Plaintiff Vivianna H.'s challenge to the Commissioner of Social Security's determination that she had been overpaid disability benefits. The court concluded that substantial evidence supported the finding that Plaintiff engaged in substantial gainful activity during the overpayment period. The action was dismissed with prejudice.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 CENTRAL DISTRICT OF
CALIFORNIA 10 VIVIANNA H., Case No. 2:25-cv-01130-JWH(E) 11 Plaintiff, ORDER
ACCEPTING FINDINGS, 12 v. CONCLUSIONS AND RECOMMENDATIONS OF 13
COMMISSIONER OF SOCIAL UNITED STATES MAGISTRATE SECURITY, JUDGE 14
Defendant. 15 16 17 18 19 20 21 22 23 24 25 26 27 28 1 Pursuant to 28 U.S.C. § 636, the Court
has reviewed the Complaint, all of the 2 records herein and the attached Report and
Recommendation of United States 3 Magistrate Judge.

Further, the Court has engaged in a de novo review of those 4 portions of the Report and
Recommendation to which any objections have been 5 made. 6 The Report recommends the
dismissal of this action, in which Plaintiff 7 Vivianna H. challenges the Commissioner's finding
that she was overpaid disability 8 benefits while she was employed. (ECF No. 17.) Plaintiff's
objections to the Report 9 (ECF No. 18) do not merit any change to the Report's findings or 10
recommendations.

11 Plaintiff objects that she was unable to engage in substantial gainful activity 12 during the
period of overpayment. (ECF No. 18 at 2-3.) As support, Plaintiff cites 13 evidence, which the
Appeals Council made a part of the record in the first instance, 14 reporting details about
Plaintiff's work activities on November 12, 2018; January 21, 15 2020; and May 31, 2022.

(Id. (citing ECF No. 11-1 at 112-20).) That evidence, 16 however, showed that Plaintiff earned
income commensurate with substantial 17 gainful activity during the period of overpayment from
April 2020 to July 2022. 18 (ECF No. 11-1 at 116-20.)

Thus, the Court agrees with the Report that substantial evidence supported the Commissioner's conclusion that Plaintiff had engaged in substantial gainful activity and, therefore, had been overpaid disability benefits. (ECF No. 17 at 5-6.) Plaintiff objects that the ALJ erred by failing to mention or evaluate that evidence. (ECF No. 18 at 3.)

As the Report explained, however, the ALJ did not consider that evidence because it was made a part of the record in the first instance by the Appeals Council. (ECF No. 17 at 4 n.2; see also ECF No. 11-1 at 5.)

Thus, the Court reviews such evidence under the substantial-evidence standard. (ECF No. 17 (citing *Brewer v. Comm'r*, 682 F.3d 1157, 1163 (9th Cir. 2012).) The Court agrees with the Report that substantial evidence supported the Commissioner's conclusion that Plaintiff was overpaid. (ECF No. 17 at 5-6.) Accordingly, the Court hereby ORDERS as follows:

1. The Magistrate Judge's Report and Recommendation is ACCEPTED and ADOPTED. 2. Judgment shall be entered DISMISSING the action with prejudice. 3. The Clerk is DIRECTED forthwith to serve a copy of this Order, the Magistrate Judge's Report and Recommendation, and the Judgment on Plaintiff and counsel for Defendant. IT IS SO ORDERED. Dated:____ September 2025. s/____ W. Ho com nited States District Judge