

**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

OPINION

Vivianna Hernandez v. Commissioner of Social Security

PER CURIAM.

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 19 evidence supported the Commissioner’s
conclusion that Plaintiff had engaged in 20 substantial gainful activity and, therefore, had been
overpaid disability benefits. 21 (ECF No. 17 at 5-6.) 22 Plaintiff objects that the ALJ erred by
failing to mention or evaluate that 23 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 *Brewes v. Comm'r*, 682 F.3d 1157, 1163 (9th Cir. 2012).) The Court 1 || agrees with the Report that substantial evidence supported the Commissioner's 2 || conclusion that Plaintiff was overpaid. (ECF No. 17 at 5-6.) 3 Accordingly, the Court hereby ORDERS as follows: 4 1. The Magistrate Judge's Report and Recommendation is ACCEPTED 5 || and ADOPTED. 6 2. Judgment shall be entered DISMISSING the action with prejudice. 7 3. The Clerk is DIRECTED forthwith to serve a copy of this Order, the 8 || Magistrate Judge's Report and Recommendation, and the Judgment on Plaintiff and 9 || counsel for Defendant. 10 IT IS SO ORDERED. 11 12 Dated:___ September 2025. 13 et 13 ohn W. Ho com 14 nited States District Judge 15 16 17 18 19 20 21 22 23 24 25 26 27 28