UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Davis v. Commissioner of Social Security Administration

Davis · No. CV-24-02916-PHX-DJH · Decided March 31, 2026

OPINION

Davis

PER CURIAM.

1 WO 2 3 4 5

6 IN THE UNITED STATES DISTRICT COURT

7 FOR THE DISTRICT OF ARIZONA

8 9 Debra Davis, No. CV-24-02916-PHX-DJH 10 Plaintiff, ORDER 11 v. 12 Commissioner of Social Security Administration, 13 Defendant. 14 15 Plaintiff Debra Davis ("Plaintiff") seeks judicial review of a decision by the Social 16 Security Administration ("SSA") Commissioner (the "Commissioner") denying her 17 application for disability benefits. (Doc. 1). Plaintiff filed her Opening Brief (Doc. 12), 18 the Commissioner filed a Response (14). Upon review of the briefs and the Administrative 19 Record ("AR"), the Court will affirm the Administrative Law Judge's ("ALJ") January 18, 20 2024, decision. 21 I. Background 22 Plaintiff filed an application for benefits on June 14, 2022, alleging a disability on 23 the onset date of March 20, 2020. (AR at 43). She was 471 years old at the time of her 24 alleged onset date and had a high school education. (Id.) Her past relevant work includes 25 1 Plaintiff says she was 47 years old at the date of onset of disability, while the ALJ says 26 she was 50 years old. Compare (AR at 51, ALJ Decision) with (Doc. 12, Plaintiff's Opening Brief). Based on the oral transcript of the hearing, the Court finds that Plaintiff 27 was 47 years old at the time of onset. (AR at 60, Hearing). Ultimately, however, this does not change the outcome for this Court, nor would it have changed the outcome for the 28 ALJ's decision because Plaintiff would still be defined as a younger individual aged between 18–49 on the date last insured. 20 CFR 404.1563 1 employment as an apartment house manager and apartment maintenance worker. (Id.) 2 Plaintiff claims she is unable to work because she cannot remain standing for extended 3 periods of time after suffering a traumatic injury that affected her lower extremities. 4 Plaintiff's claims were initially denied on February 10, 2023, and again for a second 5 time on January 18, 2024 ("January Hearing"), when the ALJ found that although she 6 suffered from several severe impairments, she retained the Residual Functional Capacity 7 ("RFC") to perform light work. (AR at 43). Now, Plaintiff is seeking this Court's review 8 of the ALJ decision. 9 II. The ALJ's Five Step Process 10 To be eligible for Social Security benefits, a claimant must show an "inability to 11 engage in any substantial gainful activity by reason of any medically determinable physical 12 or mental impairment which can be expected to result in death or which has lasted or can 13 be expected to last for a continuous

period of not less than 12 months." 14 42 U.S.C. § 423(d)(1)(A); see also Tackett v. Apfel, 180 F.3d 1094, 1098 (9th Cir. 1999). 15 The ALJ follows a five-step process2 to determine whether a claimant is disabled under the 16 Act: 17 The five-step process for disability determinations begins, at the first and second 18 steps, by asking whether a claimant is engaged in "substantial gainful activity" and 19 considering the severity of the claimant's impairments. See 20 C.F.R. § 416.920(a)(4)(i)– 20 (ii). If the inquiry continues beyond the second step, the third step asks whether the 21 claimant's impairment or combination of impairments meets or equals a listing under 22 20 C.F.R. pt. 404, subpt. P, app. 1 and meets the duration requirement. 23 See id. § 416.920(a)(4)(iii). If so, the claimant is considered disabled and benefits are 24 awarded, ending the inquiry. See id. If the process continues beyond the third step, the 25 fourth and fifth steps consider the claimant's "residual functional capacity"3 in determining 26 2 The claimant bears the burden of proof on the first four steps, but the burden shifts to the Commissioner at step five. Tackett v. Apfel, 180 F.3d 1094, 1098 (9th Cir. 1999). 27 3 A claimant's residual functional capacity is defined as their maximum ability to do 28 physical and mental work activities on a sustained basis despite limitations from their impairments. See 20 C.F.R. §§ 404.1545(a), 404.1520(e), 416.920(e). 1 whether the claimant can still do past relevant work or make an adjustment to other work. 2 See id. § 416.920(a)(4)(iv)–(v). Kennedy v. Colvin, 738 F.3d 1172, 1175 (9th Cir. 2013); 3 see also 20 C.F.R. § 404.1520(a)–(g). If the ALJ determines no such work is available, the 4 claimant is disabled. 20 C.F.R. § 404.1520(a)(4)(v). 5 The ALJ's findings in the January Hearing are summarized follows: 6 At step one, the ALJ found that Plaintiff met the insured status requirements of the 7 Act on December 31, 2022, and that she has not engaged in substantial gainful activity 8 from the alleged onset date of March 20, 2020, through her last insured date of December 9 31, 2022. (AR at 45). At step two, the ALJ found Plaintiff had the following severe 10 impairments: idiopathic peripheral neuropathy, a bilateral leg crush injury, degenerative 11 disc disease of the lumbar spine, and peripheral vascular disease. (Id. (citing 20 C.F.R. § 12 416.920(c)). At step three, the ALJ determined that Plaintiff is not covered under the 13 definition of an impairment or combination of impairments that meets or medically equals 14 an impairment listed in Appendix 1 to Subpart P of 20 C.F.R. Part 404. (Id.) 15 At step four, the ALJ found that Plaintiff has the residual functional capacity 16 ("RFC") through her date last insured to perform light work and that the claimant can 17 "occasionally operate bilateral foot controls; never climb ladder, ropes, or scaffolds; 18 occasionally climb ramps or stairs, stoop, crouch, kneel, and crawl; avoid concentrated 19 exposure to extreme cold avoid concentrated exposure to atmospheric conditions such as 20 fumes, odors, dusts, gasses, and poorly ventilated areas; and should avoid all exposure to 21 dangerous moving machinery and unprotected heights." (Id. at 48). In determining 22 Plaintiff's RFC, the ALJ stated that he "considered all symptoms and the extent to which 23 these symptoms can reasonably be accepted as consistent with the objective medical 24 evidence and other evidence . . . ." (Id.) The ALJ also considered the medical opinions and 25 prior administrative medical findings in accordance with the requirements of 20

C.F.R. § 26 404.1520c. Given her RFC assessment, the ALJ determined Plaintiff could perform work 27 as an inspector and hand packager, sale attendant, and routing clerk. (Id. at 52). At step 28 five, although the ALJ found that Plaintiff could not do any past relevant work, he found 1 that she was able to do work that existed in significant numbers in the national economy. 2 (Id. at 51). Ultimately, the ALJ found that Plaintiff was not disabled. 3 The SSA Appeals Council denied Plaintiff's request for review of the January 4 decision, thus adopting the Decision as the agency's final decision. (Doc. 11-2 at 2, 5 Correspondence from Appeals Council). This appeal followed. On January 8, 2025, 6 Plaintiff filed a Complaint under 42 U.S.C. §§ 405(g), 1383(c)(3) requesting judicial 7 review and reversal of the Commissioner's decision. (Doc. 1). 8 III. Standard of Review 9 In determining whether to reverse a decision by an ALJ, the district court reviews 10 only those issues raised by the party challenging the decision. See Lewis v. Apfel, 236 F.3d 11 503, 517 n.13 (9th Cir. 2001). "An ALJ's disability determination should be upheld unless 12 it contains legal error or is not supported by substantial evidence." Garrison v. Colvin, 759 13 F.3d 995, 1009 (9th Cir. 2014) (citing Stout v. Comm'r, Soc. Sec. Admin., 454 F.3d 1050, 14 1052 (9th Cir. 2006)); 42 U.S.C. §§ 405(g), 1383(c)(3)). "'Substantial evidence' means 15 more than a mere scintilla, but less than a preponderance; it is such relevant evidence as a 16 reasonable person might accept as adequate to support a conclusion." Garrison, 759 F.3d 17 at 1009 (9th Cir. 2014) (internal citation omitted). To determine whether substantial 18 evidence supports a decision, the Court must consider the record as a whole and may not 19 affirm simply by isolating a "specific quantum of supporting evidence." Orn v. Astrue, 20 495 F.3d 625, 630 (9th Cir. 2007). 21 The ALJ is responsible for resolving conflicts, ambiguity, and determining 22 credibility. Andrews v. Shalala, 53 F.3d 1035, 1039 (9th Cir. 1995); Magallanes v. Bowen, 23 881 F.2d 747, 750 (9th Cir. 1989). The ALJ must "set forth the reasoning behind its 24 decisions in a way that allows for meaningful review." Brown-Hunter v. Colvin, 806 F.3d 25 487, 492 (9th Cir. 2015). This is because district courts may only review those reasons the 26 ALJ places on the record and cannot speculate what the ALJ's reasoning might have been 27 based on other evidence available. Bray v. Commissioner of Social Security Admin., 554 28 F.3d 1219, 1225 (9th Cir. 2009) ("Long-standing principles of administrative law require 1 [the court] to review the ALJ's decision based on the reasoning and factual findings offered 2 by the ALJ—not post hoc rationalizations that attempt to intuit what the adjudicator may 3 have been thinking."). Generally, "[w]here the evidence is susceptible to more than one 4 rational interpretation, one of which supports the ALJ's decision, the ALJ's conclusion 5 must be upheld." Thomas v. Barnhart, 278 F.3d 947, 954 (9th Cir. 2002) (citations 6 omitted). 7 "Harmless error principles apply in the Social Security Act context." Molina v. 8 Astrue, 674 F.3d 1104, 1115 (9th Cir. 2012). An error is harmless if there remains 9 substantial evidence supporting the ALJ's decision, and the error does not affect the 10 ultimate nondisability determination. Id. Typically, the claimant bears the burden of 11 showing that an error is harmful. Id. at 1111 (citing Shinseki v. Sanders, 556 U.S. 396, 12 409 (2009)). 13 IV. Discussion 14 Plaintiff appeals the ALJ's decision rendering her not disabled. (Doc. 12). Plaintiff

15 sets forth one issue for the Court to review: Did the ALJ properly assess Plaintiff's 16 subjective testimony, along with the record as a whole, to accurately determine her RFC. 17 (Id.) According to Plaintiff, the ALJ improperly discounted her subjective symptom 18 testimony. (Id. at 4). She claims that had the ALJ fully accounted for her testimony stating 19 that she cannot stand for long period of time, he would have found her RFC to be sedentary. 20 (Id.) If he had fully considered her testimony, and the relevant medical records, he would 21 have come to a finding that Plaintiff is indeed disabled, alleges Plaintiff. (Id.) The 22 Commissioner disagrees, arguing that the ALJ cited other sources of evidence from the 23 record, such as Plaintiff's medical history and objective medical evidence to discount her 24 subjective testimony. (Doc. 14 at 5). The Commissioner further argues that the ALJ is not 25 required to take Plaintiff's testimony as face value and may look at whether Plaintiff's 26 subjective testimony is inconsistent with objective medical evidence. (Id.) The Court 27 agrees and finds that the ALJ properly cited to portions of the objective medical evidence 28 to provide specific, clear, and convincing reasons why he found her not disabled. 1 A. Legal Standards 2 An ALJ must perform a two-step analysis when determining whether a claimant's 3 testimony regarding subjective pain or symptoms is credible. Lingenfelter, 504 F.3d at 4 1035–1036 (9th Cir. 2007). First, the ALJ must determine whether Plaintiff presented 5 objective medical evidence of an impairment that could reasonably be expected to produce 6 the symptoms alleged. Garrison, 759 F.3d at 1014. "In this analysis, the claimant is not 7 required to show 'that her impairment could reasonably be expected to cause the severity 8 of the symptom she has alleged; she need only show that it could reasonably have caused 9 some degree of the symptom.' " Id. (quoting Smolen v. Chater, 80 F.3d 1273, 1282 (9th 10 Cir. 1996)). Second, if there is no evidence of malingering, the ALJ may reject the 11 Plaintiff's symptom testimony only by giving specific, clear, and convincing reasons. Id. 12 at 1015; Brown-Hunter, 806 F.3d at 488–89. "This is not an easy requirement to meet: 13 'The clear and convincing standard is the most demanding required in Social Security 14 cases.'" Garrison, 759 F.3d at 1015 (quoting Moore v. Comm'r of Soc. Sec. Admin., 278 15 F.3d 920, 924 (9th Cir. 2002)). "The standard isn't whether [the reviewing] court is 16 convinced, but instead whether the ALJ's rationale is clear enough that it has the power to 17 convince." Smartt v. Kijakazi, 53 F.4th 489, 494 (9th Cir. 2022). 18 To determine whether a claimant's testimony regarding the severity of her 19 symptoms is credible, an ALJ may consider the following: 20 (1) ordinary techniques of credibility evaluation, such as the claimant's 21 reputation for lying, prior inconsistent statements concerning the symptoms, and 22 other testimony by the claimant that appears less than candid; 23 (2) unexplained or inadequately explained failure to seek treatment or to follow 24 a prescribed course of treatment; and 25 (3) the claimant's daily activities. 26 Smolen, 80 F.3d at 1284. An ALJ may also consider the claimant's work record, and the 27 observations of treating and examining physicians and other third parties regarding "the 28 nature, onset, duration and frequency of claimant's symptoms, and precipitating and 1 aggravating factors, functional restrictions caused by the symptoms, and the claimant's 2 daily activities." Id. "General findings are insufficient;

rather, the ALJ must identify what 3 testimony is not credible and what evidence undermines the claimant's complaints." 4 Ghanim v. Colvin, 763 F.3d 1154, 1163 (9th Cir. 2014). 5 B. Plaintiff's Symptom Testimony 6 At issue is Plaintiff's symptom testimony that she cannot stand for an extended 7 duration. (Doc. 12 at 5). Because she cannot stand for an extended duration, Plaintiff says 8 that her RFC determination was improperly found to be that at the level of light work, when 9 it should have been at the level of sedentary. (Id.) She also says that her inability to stand 10 for extended durations results in her having to alternate her position throughout the day 11 and that she needs to spend most of her day laying down. (Id.) The ALJ summarized 12 Plaintiff's symptom testimony like this: 13 In her initial filings, the claimant alleged that she is disabled due to peripheral neuropathy in her legs following an 14 automobile accident, fatty liver disease, pancreatitis, diabetes, and asthma (Exhibit 2E). The claimant reported that, as a result 15 of these conditions, she has difficulty performing activities such as lifting, squatting, bending, standing, reaching, walking, 16 sitting, kneeling, climbing stairs, and competing tasks (Exhibit 4E). Specifically, the claimant reported that she is unable to lift 17 more than 10 pounds, that she can only walk for one half of a block, that neuropathy in her lower extremities makes 18 balancing difficult, and that she has difficulty dressing and bathing herself (Exhibit 4E). She stated that she relies on her 19 daughter to assist in performing chores around the home, that she must sit when preparing simple meals, and that she avoids 20 driving (Exhibit 4E). At the hearing, the claimant testified that she spends her day on the couch or in bed due to 21 concerns of falling and that she spends her day watching television or playing games (Testimony). She testified that 22 she occasionally goes shopping with her daughter, but that she will use a motorized scooter when she does so 23 (Testimony). The claimant further reported that she was limited to standing for 10 minutes and could only sit for 5 24 minutes before changing positions (Testimony). 25 (AR at 49) (emphasis added). At the first step of the symptom testimony analysis, the ALJ 26 determined that "[Plaintiff's] medically determinable impairments could reasonably be 27 expected to cause the alleged symptoms." (Id. at 49). However, at the second step, the 28 ALJ concluded that "[Plaintiff's] statements concerning the intensity, persistence and 1 limiting effects of her alleged symptoms are not entirely consistent with the medical 2 evidence and other evidence in the record[.]" (Id.) In particular, the ALJ stated that he 3 found the Disability Determination Services consultants' evaluations persuasive. (Id. at 4 50). The consultants found that "claimant can perform less than the full range of light 5 work, can occasionally climb ramps or stairs; should never climb ladders, ropes, or 6 scaffolds; can frequently balance, stoop, kneel, crouch and crawl; must be allowed to 7 alternate between sitting and standing, though this could be accommodated through normal 8 breaks . . . ." (Id. at 50). 9 Plaintiff argues that her testimony described greater limitations due to her inability 10 to stand for long periods of time. (Doc. 12 at 5). In fact, Plaintiff argues that she cannot 11 stand for more than 5–10 minutes at a time. (Id.) According to Plaintiff, if the ALJ had 12 factored in her subjective testimony along with objective medical evidence, he would have 13 readjusted her RFC to sedentary. (Id.) The Court disagrees. 14 B. Objective

Medical Records 15 The Court first addresses the ALJ's discussion of objective medical records. The 16 ALJ relied on not only the Disability Determination Consultants, but also other medical 17 evidence from the record. The ALJ cited imaging from hospital records shortly after 18 Plaintiff's accident that affected her lower extremities. (AR at 49; see also Ex. 1F, Hospital 19 Records). The records showed no laceration, paresthesia, and Plaintiff's plantar and dorsal 20 flection was intact. (Ex. 1F, Hospital Records). No evidence of a fracture or dislocation 21 was detected on the imaging scans themselves. (Id.) Months later, physical therapy records 22 conflicted with Plaintiff's testimony according to the ALJ, because she was able to 23 ambulate with only a mildly antalgic gait. (Ex. 3F/2, Physical Therapy Records). Further 24 records of testing did not reveal significant "degeneration, bulges, or foraminal narrowing 25 at L4-5." (AR at 49). An MRI that was performed in 2022, also revealed only minor 26 spondylitic changes. (Id.) As for Plaintiff's latest examinations, the ALJ also noted that 27 the treatment strategy was conservative. (Id.) The Commissioner argues that the ALJ 28 adequately identified areas in the medical record that were inconsistent with Plaintiff's 1 testimony. (Doc. 14 at 6). According to the Commissioner, this conservative course of 2 treatment contradicts Plaintiff's subjective testimony of the intensity and severity of her 3 pain. The Court agrees. In sum, the Court finds that the ALJ set forth clear and convincing 4 reasons for his conclusion that Plaintiff's testimony was inconsistent with the medical 5 record. 6 C. Inconsistent Physical Therapy 7 The ALJ also noted that Plaintiff's compliance with physical therapy was 8 inconsistent. (AR at 49). The Social Security Regulations provide that "if the frequency 9 or extent of the treatment sought by an individual is not comparable with the degree of the 10 individual's subjective complaints . . . we may find the alleged intensity and persistence of 11 an individual's symptoms are inconsistent with the overall evidence of record." S.S.R. 16- 12 3p. Indeed, an ALJ may consider a claimant's "failure to seek treatment or to follow a 13 prescribed course of treatment" in discrediting her symptom testimony. Molina, 674 F.3d 14 at 1112 (quoting Turner v. Comm'r of Soc. Sec., 613 F.3d 1217, 1224 n.3 (9th Cir. 2010)). 15 "[A]n unexplained, or inadequately explained, failure to seek treatment or follow a 16 prescribed course of treatment" may serve as a sufficient reason for an adverse credibility 17 determination. Fair v. Bowen, 885 F.2d 597, 603 (9th Cir. 1989) (citing 20 C.F.R. § 18 404.1530(c) (1988)); see also Burch, 400 F.3d at 681 (holding that a claimant's failure to 19 seek treatment for back pain, depression, and fatigue was "powerful evidence" regarding 20 the extent of her conditions). However, an ALJ "will not find an individual's symptoms 21 inconsistent with the evidence in the record on this basis without considering possible 22 reasons he or she may not comply with treatment or seek treatment consistent with the 23 degree of his or her complaints." Wilmot v. Comm'r of Soc. Sec. Admin., 2022 WL 24 18810954, *5 (D. Ariz. Nov. 17, 2022), report and recommendation adopted, 2023 WL 25 2140483 (D. Ariz. Feb. 21, 2023) (quoting S.S.R. 16-3p). 26 The ALJ noted that Plaintiff's compliance with physical therapy was inconsistent. 27 (AR at 49). He also noted that she was discharged from physical therapy in January of 28 2021. (Id.; see also Ex. 3F, Physical Therapy Records). Plaintiff provided no reasons

for 1 || why she discontinued physical therapy. And although, as commented on by the 2 || Commissioner, she tried physical therapy again in April of 2022, she reported improved || symptoms. (Doc. 14 at 6). Therefore, ALJ’s decision to discount Plaintiff's symptom 4|| testimony is substantial evidence. V. Conclusion 6 Because the ALJ set forth clear and convincing reasons for discounting □□□□□□□□□□ □ 7|| subjective testimony based on objective medical records and Plaintiff's course of 8 || treatment, the Court finds that the RFC adequately reflects the total limiting effects of 9|| Plaintiff's impairments. 10 Accordingly, 11 IT IS ORDERED that the Administrative Law Judge’s January 18, 2024, decision 12]| is affirmed. 13 IT IS FURTHER ORDERED that the Clerk of Court is kindly directed to enter judgment accordingly and terminate this action. 15 Dated this 30th day of March, 2026. 16 18 norable' Diangé4. Hunietewa 19 United States District Judge 20 21 22 23 24 25 26 27 28 -10-