

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Kelley C. v. SSA Commissioner

No. 24-cv-08055-TSH (N.D. Cal. Oct. 14, 2025) · No. 24-cv-08055-TSH · Decided October 14, 2025

SUMMARY

The United States District Court for the Northern District of California resolves cross-motions for summary judgment in a Social Security disability benefits appeal. The court holds that the Administrative Law Judge provided clear and convincing reasons for discounting the plaintiff’s subjective symptom testimony and did not fail to fully and fairly develop the record. Plaintiff’s motion is denied, and the Commissioner’s cross-motion is granted.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Thomas S. Hixson
JURISDICTION	United States District Court for the Northern District of California
DECIDED	October 14, 2025
DOCKET	24-cv-08055-TSH
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff sought judicial review under 42 U.S.C. § 405(g) of the Commissioner’s denial of Social Security disability insurance benefits. The parties filed cross-motions for summary judgment.
STANDARD OF REVIEW	The court reviews the Commissioner’s decision under 42 U.S.C. § 405(g) and may disturb it only if it is unsupported by substantial evidence or based on improper legal standards. The court must consider the entire administrative record, defer to the ALJ’s reasonable resolution of evidentiary conflicts and ambiguities, and may not substitute its judgment for the ALJ’s. A legal error may be harmless when the agency’s path can reasonably be discerned and the error does not affect the outcome.
PRECEDENTIAL VALUE	Unpublished district court order; persuasive rather than precedential value
PARTIES	Kelley C. v. SSA Commissioner

TOPICS

judicial review of agency action

administrative law

disability definition

PRACTICE AREAS

social security

administrative law

disability benefits

judicial review

QUESTIONS PRESENTED

1. Whether the ALJ gave legally sufficient reasons supported by substantial evidence for discounting Plaintiff's subjective symptom testimony.
2. Whether the ALJ failed to fully and fairly develop the administrative record.
3. Whether the ALJ improperly evaluated Plaintiff's husband's lay-witness testimony.
4. Whether the ALJ improperly evaluated the state-agency medical consultants' prior administrative medical findings.
5. Whether the vocational-expert testimony lacked evidentiary value because the hypothetical allegedly omitted limitations related to Plaintiff's spinal impairments.

HOLDINGS

1. The ALJ provided clear and convincing reasons supported by substantial evidence for discounting Plaintiff's testimony concerning the intensity, persistence, and limiting effects of her symptoms.
2. The ALJ did not violate the duty to fully and fairly develop the record.
3. The ALJ did not commit harmful error by describing but not articulating reasons for evaluating Plaintiff's husband's testimony.
4. The ALJ properly evaluated the state-agency medical consultants' findings and reasonably found Dr. DeSouza's more restrictive assessment more persuasive than Dr. Trias's assessment.
5. The ALJ properly relied on the vocational expert's testimony because the hypotheticals included the limitations the ALJ found supported by substantial evidence.

KEY QUOTATIONS

"The Commissioner's decision will be disturbed only if it is not supported by substantial evidence or if it is based on the application of improper legal standards." (at 2)

"In sum, the record demonstrates the ALJ provided Plaintiff with a full and fair hearing and that there was sufficient and adequate evidence in the overall record for the ALJ to rely on in adjudicating Plaintiff's disability claim." (at 15)

"Even if the ALJ were required to articulate germane reasons, the Court finds any failure to do so is harmless." (at 18)

"Here, the ALJ's hypothetical questions contained limitations she found were supported by substantial evidence." (at 23)

FACTUAL BACKGROUND

Plaintiff alleged disability from severe lumbar-spine impairments, including degenerative disc disease with radiculopathy, following three spinal surgeries in 2011, 2017, and February 2021. She reported persistent pain, numbness, difficulty sitting and standing, and a need to spend substantial time lying down. The record also showed periods of improvement with conservative treatment, physical therapy, medication, exercise, and other activities, including caring for her child, driving, shopping, household chores, and assisting her mother. The ALJ found Plaintiff capable of a restricted range of light work and able to perform certain past relevant work.

PROCEDURAL HISTORY

Plaintiff applied for disability insurance benefits, alleging an onset date of February 19, 2021. Her claim was denied initially and on reconsideration; an ALJ held a hearing and issued an unfavorable decision on March 5, 2024. The Appeals Council denied review on October 9, 2024, after which Plaintiff filed this action. The district court denied Plaintiff's motion for summary judgment and granted the Commissioner's cross-motion.

DISPOSITION

other

CASES CITED

- Brown-Hunter v. Colvin, 806 F.3d 487, 492 (9th Cir. 2015)
- Biestek v. Berryhill, 587 U.S. 97, 102-03 (2019)
- Garrison v. Colvin, 759 F.3d 995, 1009-10 (9th Cir. 2014)
- Hill v. Astrue, 698 F.3d 1153, 1159 (9th Cir. 2012)
- Ford v. Saul, 950 F.3d 1141, 1148-49, 1159 (9th Cir. 2020)
- Sullivan v. Zebley, 493 U.S. 521, 530 (1990)
- Thomas v. Barnhart, 278 F.3d 947, 955, 959 (9th Cir. 2002)
- Trevizo v. Berryhill, 871 F.3d 664, 678 (9th Cir. 2017)
- Molina v. Astrue, 674 F.3d 1104, 1112-13 (9th Cir. 2012)
- Smartt v. Kijakazi, 53 F.4th 489, 499 (9th Cir. 2022)
- Rollins v. Massanari, 261 F.3d 853, 857 (9th Cir. 2001)
- Reyes v. Berryhill, 716 Fed. App'x 714, 714 (9th Cir. 2018)
- Wellington v. Berryhill, 878 F.3d 867, 876 (9th Cir. 2017)
- Fennell v. Berryhill, 721 Fed. App'x 652, 655 (9th Cir. 2018)
- Back v. Colvin, 653 Fed. App'x 550, 552 (9th Cir. 2016)
- Andrews v. Shalala, 53 F.3d 1035, 1039 (9th Cir. 1995)
- Guillen v. Commissioner of Social Security, 232 F. App'x 699, 701-02 (9th Cir. 2007)
- Mayes v. Massanari, 276 F.3d 453, 459-60 (9th Cir. 2001)
- Garcia v. Commissioner of Social Security, 768 F.3d 925, 930 (9th Cir. 2014)

- Abrew v. Astrue, 303 Fed. App'x 567, 569 (9th Cir. 2008)
- Lewis v. Apfel, 236 F.3d 503, 514 (9th Cir. 2001)
- Treichler v. Commissioner of Social Security, 775 F.3d 1090, 1098 (9th Cir. 2014)
- Batson v. Commissioner of Social Security Administration, 359 F.3d 1190, 1193, 1195 (9th Cir. 2004)
- Crummett v. King, 2025 WL 470890, at *2 (9th Cir. Feb. 12, 2025)
- Fryer v. Kijakazi, 2022 WL 17958630, at *3 n.1 (9th Cir. Dec. 27, 2022)
- Stephens v. Kijakazi, 2023 WL 6937296, at *2 (9th Cir. Oct. 20, 2023)
- Trogdon v. O'Malley, 2024 WL 3949081, at *1 (9th Cir. Aug. 27, 2024)
- Valentine v. Commissioner of Social Security Administration, 574 F.3d 685, 694 (9th Cir. 2009)
- De Mello v. Kijakazi, 2022 WL 17583054, at *1 (9th Cir. Dec. 12, 2022)
- Jacob v. Berryhill, 756 F. App'x 709, 711-12 (9th Cir. 2018)
- Woods v. Kijakazi, 32 F.4th 785, 787, 791-93 (9th Cir. 2022)
- Wischmann v. Kijakazi, 68 F.4th 498, 502 (9th Cir. 2023)
- Pamela M. v. Kijakazi, 2021 WL 4461546, at *13 (N.D. Cal. Sept. 29, 2021)
- Stubbs-Danielson v. Astrue, 539 F.3d 1169, 1175-76 (9th Cir. 2008)
- Rimando v. Commissioner of Social Security Administration, 2022 WL 4113592, at *19 (D. Ariz. July 15, 2022), report and recommendation adopted, 2022 WL 3443679 (D. Ariz. Aug. 17, 2022)
- Smith v. Berryhill, 752 Fed. App'x 473, 475-76 (9th Cir. 2019)

OPINION

1 2 3 4 UNITED STATES DISTRICT COURT 5 NORTHERN DISTRICT OF CALIFORNIA 6 7
 KELLEY C.,¹ Case No. 24-cv-08055-TSH 8 Plaintiff, ORDER RE: CROSS-MOTIONS FOR 9 v.
 SUMMARY JUDGMENT 10 SSA COMMISSIONER, Re: Dkt. Nos. 10, 14 11 Defendant. 12 13
 I. INTRODUCTION 14 Plaintiff Kelley C. moves for summary judgment to reverse the Social
 Security 15 Administration's decision to deny her claim for disability benefits under the Social
 Security Act, 16 42 U.S.C. § 401 et seq.

ECF No. 10. Defendant cross-moves to affirm. ECF No. 14. Pursuant to 17 Civil Local Rule 16-5,
 the matter is submitted without oral argument. For the reasons stated 18 below, the Court DENIES
 Plaintiff's motion and GRANTS Defendant's cross-motion.² 19 II. PROCEDURAL HISTORY 20
 On August 9, 2022, Plaintiff filed an application for Social Security disability insurance 21
 benefits, stating a disability onset date of February 19, 2021.

Administrative Record (AR) 217, 22 222. Following denial at the initial and reconsideration
 levels, Plaintiff requested a hearing before 23 an Administrative Law Judge (ALJ). AR 108, 115-
 16, 125. An ALJ held a hearing on June 21, 24 2021, and issued an unfavorable decision on March
 5, 2024. AR 17-31, 36-83.

The Appeals 25 26 1 Partially redacted in compliance with Federal Rule of Civil Procedure 5.2(c) (2)(B) and the recommendation of the Committee on Court Administration and Case Management of the Judicial 27 Conference of the United States. 1 Council denied Plaintiff's request for review on October 9, 2024. AR 1-3. Plaintiff now seeks 2 review pursuant to 42 U.S.C. § 405(g).

3 III. ISSUES FOR REVIEW 4 Plaintiff raises five issues on appeal: (1) the ALJ erred in weighing her subjective 5 complaints; (2) the ALJ failed to fully and fairly develop the record; (3) the ALJ did not accurately 6 weigh testimony of Plaintiff's husband; (4) the ALJ gave improper weight to a non-examining 7 medical consultant; and (5) the vocational witness testimony in response to the ALJ's hypothetical 8 was of no evidentiary value.

9 IV. STANDARD OF REVIEW 10 42 U.S.C. § 405(g) provides this Court's authority to review the Commissioner's decision 11 to deny disability benefits, but "a federal court's review of Social Security determinations is quite 12 limited." *Brown-Hunter v. Colvin*, 806 F.3d 487, 492 (9th Cir. 2015).

The Commissioner's 13 decision will be disturbed only if it is not supported by substantial evidence or if it is based on the 14 application of improper legal standards. *Id.* Substantial means "more than a mere scintilla," but 15 only "such relevant evidence as a reasonable mind might accept as adequate to support a 16 conclusion." *Biestek v. Berryhill*, 587 U.S. 97, 103 (2019) (cleaned up).

Under this standard, 17 which is "not high," the Court looks to the existing administrative record and asks "whether it 18 contains 'sufficient evidence' to support the agency's factual determinations." *Id.* at 102 (cleaned 19 up). 20 The Court "must consider the entire record as a whole, weighing both the evidence that 21 supports and the evidence that detracts from the Commissioner's conclusion, and may not affirm 22 simply by isolating a specific quantum of supporting evidence." *Garrison v. Colvin*, 759 F.3d 23 995, 1009 (9th Cir.

2014) (citation omitted). "The ALJ is responsible for determining credibility, 24 resolving conflicts in medical testimony, and for resolving ambiguities." *Id.* at 1010 (citation 25 omitted). If "the evidence can reasonably support either affirming or reversing a decision," the 26 Court must defer to the ALJ's decision. *Id.* (citation omitted). 27 Even if the ALJ commits legal error, the ALJ's decision must be upheld if the error is 1 despite the legal error, the agency's path may reasonably be discerned, even if the agency explains 2 its decision with less than ideal clarity." *Brown-Hunter*, 806 F.3d at 492 (cleaned up).

But "[a] 3 reviewing court may not make independent findings based on the evidence before the ALJ to 4 conclude that the ALJ's error was harmless" and is instead "constrained to review the reasons the 5 ALJ asserts." *Id.* (cleaned up). 6 V. DISCUSSION 7 A. Framework for Determining Whether a Claimant Is Disabled 8 A claimant is "disabled" under the Social Security Act (1) "if he

is unable to engage in any 9 substantial gainful activity by reason of any medically determinable physical or mental 10 impairment which can be expected to result in death or which has lasted or can be expected to last 11 for a continuous period of not less than twelve months” and (2) the impairment is “of such severity 12 that he is not only unable to do his previous work but cannot, considering his age, education, and 13 work experience, engage in any other kind of substantial gainful work which exists in the national 14 economy.” 42 U.S.C. § 1382c(a)(3)(A)-(B); *Hill v. Astrue*, 698 F.3d 1153, 1159 (9th Cir.

2012). 15 To determine whether a claimant is disabled, an ALJ is required to employ a five-step sequential 16 analysis. 20 C.F.R. § 404.1520(a)(1) (disability insurance benefits); *id.* § 416.920(a)(4) (same 17 standard for supplemental security income).

The claimant bears the burden of proof at steps one 18 through four. *Ford v. Saul*, 950 F.3d 1141, 1148 (9th Cir. 2020) (citation omitted). 19 At step one, the ALJ must determine if the claimant is presently engaged in a “substantial 20 gainful activity,” 20 C.F.R. § 404.1520(a)(4)(i), defined as “work done for pay or profit that 21 involves significant mental or physical activities.” *Ford*, 950 F.3d at 1148 (cleaned up).

Here, the 22 ALJ determined Plaintiff had not performed substantial gainful activity since May 1, 2017. AR 23 19. 24 At step two, the ALJ decides whether the claimant’s impairment or combination of 25 impairments is “severe,” 20 C.F.R. § 404.1520(a)(4)(ii), “meaning that it significantly limits the 26 claimant’s ‘physical or mental ability to do basic work activities.’” *Ford*, 950 F.3d at 1148 27 (quoting 20 C.F.R. § 404.1522(a)).

If no severe impairment is found, the claimant is not disabled. 1 impairment: “degenerative disc disease of the lumbosacral spine with radiculopathy and history of 2 three spinal surgeries (20 CFR 404.1520(c)).” AR 19. 3 At step three, the ALJ evaluates whether the claimant has an impairment or combination of 4 impairments that meets or equals an impairment in the “Listing of Impairments” (referred to as the 5 “listings”).

See 20 C.F.R. § 404.1520(a)(4)(iii); 20 C.F.R. Pt. 404 Subpt. P, App. 1. The listings 6 describe impairments that are considered “to be severe enough to prevent an individual from doing 7 any gainful activity.” *Id.* § 404.1525(a). Each impairment is described in terms of “the objective 8 medical and other findings needed to satisfy the criteria of that listing.” *Id.* § 404.1525(c)(3).

9 “For a claimant to show that his impairment matches a listing, it must meet all of the specified 10 medical criteria. An impairment that manifests only some of those criteria, no matter how 11 severely, does not qualify.” *Sullivan v. Zebley*, 493 U.S. 521, 530 (1990) (footnote omitted). If a 12 claimant’s impairment either meets the listed criteria for the diagnosis or is medically equivalent 13 to the criteria of the diagnosis, he is conclusively presumed to be disabled, without considering 14 age, education and work experience.

20 C.F.R. § 404.1520(d). Here, the ALJ determined Plaintiff 15 did not have an impairment or combination of impairments that meets the listings. AR 19-20. 16 If the claimant does not meet or equal a listing, the ALJ proceeds to step four and assesses 17 the claimant's residual functional capacity ("RFC"), defined as the most the claimant can still do 18 despite their limitations (20 C.F.R. § 404.1545(a)(1)), and determines whether they are able to 19 perform past relevant work, defined as "work that [the claimant has] done within the past 15 years, 20 that was substantial gainful activity, and that lasted long enough for [the claimant] to learn to do 21 it." 20 C.F.R. § 404.1560(b)(1).

If the ALJ determines, based on the RFC, that the claimant can 22 perform past relevant work, the claimant is not disabled. Id. § 404.1520(f). Here, the ALJ 23 determined Plaintiff has the RFC to 24 perform light work as defined in 20 CFR 404.1567(b) except the claimant can/is further limited as follows: 25 • Can lift and carry, as well as push and pull 20 pounds occasionally 26 and 10 pounds frequently.

27 • Sit 6 hours, and can stand and/or walk 4 hours in an eight-hour 1 • Never climb ladders, ropes and scaffolds. Occasionally climb ramps and stairs, balance, stoop, kneel, crouch and crawl. 2 • Never work at unprotected heights, never work with exposed 3 moving mechanical parts. Avoid concentrated exposure to extreme cold and vibration. 4 5 AR 20. Based on this RFC, the ALJ determined Plaintiff could perform past relevant work as a 6 leasing manager, bookkeeper, and office worker/manager.

AR 28. As such, the ALJ determined 7 Plaintiff was not under a disability, as defined by the Social Security Act. AR 30-31. 8 If the ALJ did not make an ultimate finding as to disability at step four, the analysis would 9 proceed to step five, when the burden shifts to the agency to prove that "the claimant can perform 10 a significant number of other jobs in the national economy." Ford, 950 F.3d at 1149 (quoting 11 Thomas v. Barnhart, 278 F.3d 947, 955 (9th Cir.

2002)). To meet this burden, the ALJ may rely 12 on the Medical-Vocational Guidelines (commonly known as "the grids"), 20 C.F.R. Pt. 404 Subpt. 13 P, App. 2,3 or on the testimony of a vocational expert. Ford, 950 F.3d at 1149 (citation omitted). 14 An ALJ may also use other resources such as the Dictionary of Occupational Titles ("DOT").³ Id. 15 Here, the ALJ made an alternative finding at step five that Plaintiff could perform the 16 requirements of representative occupations such as office helper (DOT # 239.567-010, light 17 unskilled; with 3,250 positions nationally); parts assembler (DOT # 706.684-022, light unskilled, 18 with 12,000 positions nationally); sorter (DOT # 222.687-022, light unskilled, with 60,000 19 positions nationally); mail clerk (DOT # 209.687-026, light unskilled, with 6,000 positions 20 nationally), order clerk, clerical sector (DOT # 249.362-026, sedentary unskilled, with 105,000 21 positions nationally); appointment setter (DOT # 237.367-010, sedentary unskilled, with 140,000 22 positions

nationally); order clerk, food and beverage sector (DOT # 209.567-014, sedentary 23 unskilled, with 10,000 positions nationally).

AR 29-30. 24 25 3 The Dictionary of Occupational Titles classifies jobs by their exertional and skill requirements. 26 20 C.F.R. § 404.1566(d)(1); Wischmann v. Kijakazi, 68 F.4th 498, 502 (9th Cir. 2023) (“Although criticized as having many outdated job descriptions, the DOT is typically the starting point for 27 [vocational experts] to identify the occupations relevant for each claimant’s residual functional 1 B. Subjective Complaints 2 Plaintiff alleges disability due to “the combined effects of her severe lumbar spine 3 impairments which are now status post three extensive surgeries.” AR 375.

These surgeries were 4 laminectomies/discectomies with instrumentation/hardware removal and fusion in December 5 2011, April 2017, and February 2021. AR 375-76. They were followed by several months of 6 physical therapy as well as multiple lumbar epidural steroid injections. AR 375-77. Despite the 7 surgeries and treatment, Plaintiff maintains “severe pain and limitation ultimately prevented her 8 from sustaining work at any level and have continued to greatly interfere with her day-to-day life.” 9 AR 377.

10 In response to ALJ’s question about why she cannot work, Plaintiff testified: 11 Unfortunately now with my current medical state I am not able to do extended periods of any position whether that be the sitting or 12 standing or moving around. Laying down is kind of my, my basic state for a lot of my, my time, and on a heating pad. I had 13 complications from my last surgery that I went in with a set of some issues and, and some nerve problems and due to a complication from 14 that surgery I came out with a different set of issues that were -- made my condition worse for me and physically worse on me and those 15 have not rendered themselves any change in that timeframe, and my doctors don’t foresee that there will be a change in that condition.

So 16 I have an extremely sharp, almost like a stabbing feeling that goes from the lower back down to the back of my left knee that is constant. 17 I have no relief from that all day and then I’m, I’m numb on the front half of my pelvic area, so literally straight down the middle and off to 18 the left and that whole side of my hip and pelvic area it’s numb from the nerves that were affected from the complications from the surgery.

19 And because of these issues and just how much pain I have in my back that’s accumulated from three fusion surgeries I’m just never 20 very comfortable. I can’t, I can’t sit for very long, I can’t stand for very long, even if I’m laying down I’m constantly having to move 21 from my side to my other side and flipping and flopping. It affects my sleep, it affects my mental state.

It’s definitely made my 22 concentration very, very difficult. I used to be able to push through the pain and kind of through tips and, and things that I’ve learned with 23 therapy and like through the

chronic pain clinic a couple times learned how to not have that be the forethought of my attention, but I was able 24 to live a more -- quality of life. 25 AR 55-56.

When the ALJ asked about therapies and any relief, Plaintiff responded: "I'd gone 26 through chronic pain clinic prior to this last surgery and that's more coping with the pain and, and 27 ways of dealing with that. I did do months of physical therapy because I've already had the 1 not help, no." AR 57. When asked to describe a typical day, Plaintiff responded: 2 Again sitting and standing for significant periods of time are, are my most challenging, so we've changed out furniture in my home so that 3 I have like an adjustable frame for my bed.

I have, you know, fully reclining couches. My son now is pretty independent as far as being 4 able to play and do his, his own thing with his toys and whatnot. So for -- on average I get up in the morning and my son sits on the bed 5 with me. I feed him.... So we do that upstairs on the bed with me, while I'm on a heating pad. And depending if it's a school day or not 6 after that I, you know, I'll drop him off at school and then I come home and I'm back to laying down until I have to go get him at, at 7 11:30.

So I get about, you know, two and a half-hour or two hours probably once I drop him off and time to go pick him up, break three 8 days a week. Once I pick him up we come home and I'm on the couch and he's, he has pretty easy food schedule... He'll bring his toys 9 over to me and we'll play and interact with him, I watch him, I play with my kid, we, you know, I do hustle over and sit with him for a 10 little bit at the table and we'll practice some arts and crafts or we practice his writing or we sit and we're reading our book.

On days 11 that I am feeling a little bit better and I'm not as in, in as much pain I might drive him over to the park and I'll sit on the bench and let him 12 play on the, the playground. And then we come home and he takes a nap at 3:00. I'm laying down again on my bed on the heating pad 13 until he wakes up about 5:00 or so and then I am downstairs. I get him dinner and once my husband comes home about 7:30 or so he, he 14 takes over my son and I go back upstairs and lay down once again.

15 AR 58-59. 16 The ALJ found Plaintiff's lumbar spine impairments to be severe and that they could 17 reasonably be expected to cause the type of alleged symptoms; but that her statements concerning 18 the intensity, persistence and limiting effects of these symptoms were not consistent with the 19 medical evidence and other evidence in the record. AR 19, 26.

Plaintiff argues the ALJ erred 20 because the record supports her statements. Pl.'s Mot. at 3-6. 21 1. Legal Standard 22 The Ninth Circuit has "established a two-step analysis for determining the extent to which 23 a claimant's symptom testimony must be credited." *Trevizo v. Berryhill*, 871 F.3d 664, 678 (9th 24 Cir. 2017). "First, the ALJ must determine whether the claimant has presented objective medical 25 evidence of an underlying impairment which could reasonably be

expected to produce the pain or 26 other symptoms alleged.” *Id.* “Second, if the claimant meets this first test, and there is no 27 evidence of malingering, the ALJ can reject the claimant’s testimony about the severity of her 1 *Astrue*, 504 F.3d 1028, 1036 (9th Cir.

2007) (cleaned up). If the ALJ’s assessment “is supported 2 by substantial evidence in the record, [courts] may not engage in second-guessing.” *Thomas*, 278 3 F.3d at 959 (cleaned up). 4 “At the same time, the ALJ is not required to believe every allegation of [symptoms], or 5 else disability benefits would be available for the asking, a result plainly contrary to 42 U.S.C. § 6 423(d)(5) (A).” *Molina v. Astrue*, 674 F.3d 1104, 1112 (9th Cir.

2012) (citation and internal 7 quotations omitted), superseded on other grounds by 20 C.F.R. § 404.1502(a). In determining 8 whether an individual’s symptoms will reduce her capacities to perform work-related activities or 9 abilities to function, “the ALJ may consider inconsistencies either in the claimant’s testimony or 10 between the testimony and the claimant’s conduct; unexplained or inadequately explained failure 11 to seek treatment or to follow a prescribed course of treatment; and whether the claimant engages 12 in daily activities inconsistent with the alleged symptoms.” *Id.* (citations and internal quotation 13 marks omitted).

The clear and convincing standard “isn’t whether our court is convinced, but 14 instead whether the ALJ’s rationale is clear enough that it has the power to convince.” *Smartt v. 15 Kijakazi*, 53 F.4th 489, 499 (9th Cir. 2022). 16 2. Analysis 17 The Court finds the ALJ provided clear and convincing reasons for discounting Plaintiff’s 18 testimony, and substantial evidence supports the ALJ’s decision.

First, the ALJ properly found 19 that Plaintiff’s allegations of disabling symptoms were not supported by the medical evidence. 20 See 20 C.F.R. § 404.1529(c)(2) (“Objective medical evidence of this type is a useful indicator to 21 assist us in making reasonable conclusions about the intensity and persistence of your symptoms 22 and the effect those symptoms, such as pain, may have on your ability to work.”).

This could not 23 be the ALJ’s sole reason for rejecting Plaintiff’s statements about symptoms, but it was a factor 24 the ALJ was required to consider. See *Rollins v. Massanari*, 261 F.3d 853, 857 (9th Cir. 2001) 25 (while a claimant’s subjective statements about symptomology “cannot be rejected on the sole 26 ground that it is not fully corroborated by objective medical evidence, the medical evidence is still 27 a relevant factor”); *Reyes v. Berryhill*, 716 Fed.

App’x 714, 714 (9th Cir. 2018) (ALJ properly 1 Since Plaintiff’s surgery in April 2017, the ALJ detailed that she generally received 2 conservative treatment, including physical therapy, injections and medication management, that 3 resulted in symptom improvement. AR 23-26.

For example, Plaintiff reported in May 2017 that 4 her sciatica was resolved, and in June 2017 she endorsed complete resolution of her radiculopathy 5 with no lingering leg pain and that back pain

was improving with physical therapy. AR 23-24 6 (citing 669, 674, 676).

After an October 2017 motor vehicle accident exacerbated her symptoms, 7 Plaintiff's physical therapist noted she was ambulating with a single-point cane with moderate 8 antalgia, but this began to abate as of February 2018 with continued physical therapy and a lumbar 9 epidural steroid injection, and she had discontinued her use of a cane by March 1, 2018.

AR 625- 10 28, 636, 643-48. During this period, Plaintiff's treating provider recommended only "conservative 11 management." AR 24 (citing 643-44). 12 The ALJ noted that Plaintiff gave birth at the end June 2019 and reported some back pain 13 during her pregnancy and during the early post-partum stages, yet the record did not establish a 14 return to regular orthopedic or physical therapy treatment until July 2020.

Id. (citing 553-54, 562, 15 583-84, 594). In that July 2020 examination, the treating provider noted Plaintiff reported she was 16 having pain and trouble strengthening, yet her examination revealed she was in no acute distress, 17 had full range of motion with some pain, and neurological functional strength was intact. Id. 18 (citing 553-54).

The ALJ also noted Plaintiff's physical examinations consistently showed some 19 pain/discomfort and tightness with range of motion, but she maintained the ability to complete 20 these motions, as well as her intact strength. AR 26 (citing 1504-06).

Although Plaintiff 21 underwent an additional surgery on February 10, 2021, by June 2021 she reported making good 22 progress with the stationary bike recommended by her providers, as well as pool therapy. Id. 23 (citing 433, 501). 24 The ALJ also cited to records from November 2021 in which Plaintiff reported she was 25 feeling stronger, doing well with her at home exercise program, and that she had been able to do 26 all her exercises and had advanced to plank exercises.

Id. (citing 404-05). The ALJ noted the 27 record did not document any further physical therapy between this time and June 30, 2022 1 her surgeon in March 2022, Plaintiff reported she was successfully managing symptoms with 2 medication, and she reported in July 2022 that she was still getting benefit from medication 3 without side effects. AR 25 (citing 392, 396).

Such "evidence of medical treatment successfully 4 relieving symptoms can undermine a claim of disability." *Wellington v. Berryhill*, 878 F.3d 867, 5 876 (9th Cir. 2017). 6 As to the medical opinions of record, the state agency administrative medical findings are 7 the only findings in the record detailing Plaintiff's limitations.

The initial-level state agency 8 medical consultant, E. Trias, M.D., found Plaintiff "could perform at the medium exertional level 9 (lifting/carrying fifty pounds occasionally and twenty five pounds frequently; sitting six hours out 10 of an eight-hour workday; standing/walking six hours out of an

eight-hour workday; and 11 pushing/pulling up to the limits of lifting/carrying) with a further limitation of no more than 12 frequent climbing of stairs and ramps, ladders, ropes, and scaffolds, stooping, and crawling.” AR 13 27 (citing AR 84-97).

On the other hand, the reconsideration-level state agency medical 14 consultant, L. DeSouza, M.D., found Plaintiff “could perform at the light exertional level 15 (lifting/carrying twenty pounds occasionally and ten pounds frequently; sitting six hours out of an 16 eight-hour workday; standing/walking six hours out of an eight-hour workday; and 17 pushing/pulling up to the limits of lifting/carrying) with a further reduction of standing/walking to 18 four hours out of an eight-hour workday (with an allowance to alternate sitting and standing for 25 19 seconds every hour to relieve low back pain), with no climbing of ladders, ropes, and scaffolds, no 20 more than occasional climbing of stairs and ramps, kneeling, crouching, and crawling and no more 21 than frequent balancing.

The claimant must also avoid even moderate exposure to hazards.” Id. 22 (citing AR 100-07). The ALJ found Dr. DeSouza’s opinion, which calls for greater limitations 23 than Dr. Trias’s opinion, “is more persuasive as it is more consistent with the claimant’s 24 statements of her activities (to providers if not in her allegations)[.]” AR 28.

In fact, the ALJ 25 found Plaintiff more limited than Dr. DeSouza’s opinion, finding she could occasionally balance; 26 should avoid concentrated exposure to extreme cold and vibration; and could sit/stand at will. AR 27 23, 28. Plaintiff points to no other opinions in support of her argument. See Smartt, 53 F.4th at 1 testimony, the ALJ may indeed weigh it as undercutting such testimony.”) (emphasis omitted).

2 The ALJ also considered Plaintiff’s activities of daily living. AR 26; 20 C.F.R. § 3 404.1529(c) (3)(i). The ALJ noted Plaintiff reported she “lives on her heating pad,” but she also 4 stated she traveled to her mother’s home to assist her, cared for her son, attended multiple birthday 5 parties over a single weekend, performed a broad array of physical therapy exercises including 6 stationary bike use and water therapy, did household chores, went shopping, and drove more than 7 an hour at a time.

AR 26-27 (citing 334-337; 392, 396, 407, 421-22, 425, 433-35, 551-52, 1478- 8 79). The ALJ also noted Plaintiff exercised by power walking for 90 minutes and riding a bike 9 cruiser. AR 27 (citing 551-52). “Even where [a claimant’s] activities suggest some difficulty 10 functioning, they may be grounds for discrediting the claimant’s testimony to the extent that they 11 contradict claims of a totally debilitating impairment.” Molina, 674 F.3d at 1113; see Rollins, 261 12 F.3d at 857 (“The ALJ also pointed out ways in which [claimant’s] claim to have totally disabling 13 pain was undermined by her own testimony about her daily activities, such as attending to the 14 needs of her two young children, cooking, housekeeping, laundry, shopping, attending therapy and 15 various other meetings every week.”).

16 The ALJ also noted Plaintiff identified her occupation as a stay-at-home mother, her 17 treatment goal was to be “an active mom,” and disclosed to her providers that the family was 18 under some financial strain with no alternative childcare or other support options. AR 26 (citing 19 AR 406, 430, 443, 1478-79).

The ALJ found these statements “suggest that the claimant’s family 20 may have determined that the claimant will provide primary childcare, which may furnish a non- 21 disability explanation for the claimant’s forbearance from substantial gainful activity in the 22 workforce.” *Id.*; see *Fennell v. Berryhill*, 721 Fed. App’x 652, 655 (9th Cir. 2018) (“her ability to 23 care for her young son is inconsistent with her allegation that she spends most days lying down 24 and doing nothing”); *Back v. Colvin*, 653 Fed.

App’x 550, 552 (9th Cir. 2016) (“some record 25 evidence suggested that family pressures and concerns about parenting—as opposed to debilitating 26 pain—motivated [claimant] to leave full-time employment”). 27 Plaintiff argues the ALJ’s reasons for rejecting her subjective complaints “did not rise to 1 penalize [her] for being able to engage in prescribed PT exercises is questionable at best.” *Id.* at 4.

2 However, the clear and convincing standard “isn’t whether our court is convinced, but instead 3 whether the ALJ’s rationale is clear enough that it has the power to convince.” *Smartt*, 53 F.4th at 4 499. Although Plaintiff highlights select pieces of evidence to argue she was more limited than 5 the ALJ determined, it is not the Court’s role to second guess the ALJ’s conclusions or substitute 6 its judgment for the ALJ’s.

See *Ford*, 950 F.3d at 1149 (“the ALJ ‘is responsible for determining 7 credibility, resolving conflicts in medical testimony, and for resolving ambiguities’”) (quoting 8 *Andrews v. Shalala*, 53 F.3d 1035, 1039 (9th Cir. 1995)). So long as substantial evidence supports 9 the ALJ’s assessment of Plaintiff’s subjective complaints, a reviewing court will “not engage in 10 second-guessing.” *Thomas*, 278 F.3d at 959; see *Guillen v. Comm’r of Soc.*

Sec., 232 F. App’x 11 699, 701-02 (9th Cir. 2007) (rejecting claim where there was some evidence supporting the need 12 for more than three to five bathroom breaks per eight-hour shift, but ALJ had reasonably found the 13 claimant’s subjective complaints not fully supported). 14 In sum, the ALJ provided clear and convincing reasons for discounting Plaintiff’s 15 statements about her alleged symptoms and limitations.

Because the ALJ’s findings were 16 reasonable and well supported by substantial evidence in the record, the Court must affirm, even if 17 other interpretations of the evidence are possible. See *Woods v. Kijakazi*, 32 F.4th 785, 788 (9th 18 Cir. 2022) (“Where evidence is susceptible to more than one rational interpretation, it is the ALJ’s 19 conclusion that must be upheld.”) (quoting *Burch*, 400 F.3d at 679).

20 C. Whether the ALJ Fully and Fairly Developed the Record 21 Plaintiff argues the ALJ failed to fully and fairly develop the record because she “relied on 22 multiple reasons for discounting [Plaintiff’s] subjective complaints without so much as asking a 23 single question about those concerns.” Pl.’s Mot. at 6. She notes the ALJ asked her why she 24 couldn’t work, asked about her surgeries, asked if there were any benefits from 25 therapies/treatments, and asked her to describe a typical day, but she did not ask “a single question 26 about [her] traveling to her mother’s, or about birthday parties, PT exercises, or anything else 27 listed.

If the ALJ had concerns or needed clarification, we were present to provide it. The ALJ 1 “In Social Security cases, the ALJ has a special duty to develop the record fully and fairly 2 and to ensure that the claimant’s interests are considered, even when the claimant is represented by 3 counsel.” *Mayes v. Massanari*, 276 F.3d 453, 459 (9th Cir. 2001). “The ALJ is not a mere umpire 4 at such a proceeding: it is incumbent upon the ALJ to scrupulously and conscientiously probe into, 5 inquire of, and explore for all the relevant facts.” *Garcia v. Comm’r of Soc.*

Sec., 768 F.3d 925, 6 930 (9th Cir. 2014) (cleaned up). This duty is triggered “when there is ambiguous evidence or 7 when the record is inadequate to allow for proper evaluation.” *Mayes*, 276 F.3d at 459–60. 8 There is no indication the record was inadequate for the ALJ to consider Plaintiff’s history 9 of and treatment for back pain. Medical records in the transcript explain that Plaintiff had been 10 treated for back pain, and the ALJ specifically found she was severely impaired by degenerative 11 disc disease of the lumbosacral spine.

The ALJ discussed Plaintiff’s back pain and medication 12 and treatment for that pain in the decision. See *Abrew v. Astrue*, 303 Fed. App’x 567, 569 (9th 13 Cir. 2008) (“The ALJ did not err by failing to develop the record further because the ALJ 14 evaluated [claimant’s] testimony, lay testimony and at least four physician’s reports and because 15 ‘[t]he ALJ did not indicate that he found the record insufficient to properly evaluate the evidence,’ 16 obviating any need to develop the record”) (citing *Lewis v. Apfel*, 236 F.3d 503, 514 (9th Cir.

17 2001)). 18 While Plaintiff contends the ALJ failed to develop the record fully and fairly by not asking 19 about any perceived inconsistencies between her statements and the other evidence in the record, 20 identifying and resolving such conflicts is the ALJ’s responsibility.

To the extent the evidence of 21 record is conflicting, as it is here in parts, the Court defers to the ALJ to resolve any conflicts. See 22 *Treichler v. Comm’r of Soc. Sec.*, 775 F.3d 1090, 1098 (9th Cir. 2014) (court “leaves it to the 23 ALJ” to resolve conflicts and ambiguities in the record); *Batson v. Comm’r of Soc. Sec. Admin.*, 24 359 F.3d 1190, 1195 (9th Cir.

2004) (holding that the ALJ resolves conflicts in the medical 25 opinions). While Plaintiff argues the ALJ ignored opportunities during her and her husband’s 26 testimony to ask about possible areas that the ALJ was concerned about, the Court considers this 27 an invitation to reweigh the

evidence and substitute its judgment for that of the ALJ, something 1 1995) (“If the evidence can reasonably support either affirming or reversing the Secretary’s 2 conclusion, the court may not substitute its judgment for that of the Secretary.”); *Rimando v. 3 Comm’r of Soc.*

Sec. Admin., 2022 WL 4113592, at *19 (D. Ariz. July 15, 2022), report and 4 recommendation adopted, 2022 WL 3443679 (D. Ariz. Aug. 17, 2022) (“It is specious for counsel 5 to contend that the ALJ failed a duty to question Plaintiff about a few specific activities that the 6 ALJ later cited as reason, in part, to find Plaintiff’s testimony less than persuasive, when counsel 7 is certainly well aware that daily activities are frequently cited in ALJ decisions as inconsistent 8 with testimony alleging totally disabling impairments.”).

9 In sum, the record demonstrates the ALJ provided Plaintiff with a full and fair hearing and 10 that there was sufficient and adequate evidence in the overall record for the ALJ to rely on in 11 adjudicating Plaintiff’s disability claim.

As such, there was no duty to further develop the record. 12 D. Lay Witness Testimony 13 Plaintiff’s husband testified at the March 5, 2024 hearing as to the period between the 14 Plaintiff’s February 2021 surgery and her June 2022 date last insured. AR 69-74.

In terms of 15 Plaintiff’s functioning, he testified: “It was, it was very limited. We have open stairs in our house 16 and it was very difficult for her to get up and down the stairs to the point where at times I would 17 have to help her up the stairs. She cannot carry anything up and down the stairs, if we had laundry 18 to do she couldn’t carry the laundry, she couldn’t carry a vacuum up and down the stairs, anything 19 like that.

It got to a point where it was difficult enough where she couldn’t come from the outside 20 to the inside without having to brace herself against me to go up four stairs from the outside into 21 our house.” AR 70. He also testified about how he assisted Plaintiff with their son: “Absolutely, 22 absolutely. She could not lift him in and out of a crib and so that was all me.

When she wanted to 23 play with him I would have to take him either off the couch onto the ground or onto the -- from the 24 ground onto the couch or from the ground onto the bed or anything like that. It was a huge burden 25 for her to even attempt to try to lift him. She couldn’t bathe him, I had to do all the bathing, in the 26 shower, in the tub, lifting him up.” AR 71.

He also testified to how often Plaintiff had to rest and 27 lie down during the first year following the February 2021 surgery: “Almost 100% of the time 1 come upstairs and lay down on the heating pad and be as horizontal as possible. Even sitting 2 downstairs on a couch, on her recliner it couldn’t get fully, you know, the recliner doesn’t go fully 3 horizontal, so sitting on the couch was a relief but it was not a bigger relief as coming upstairs on 4 the bed.

And so every time I was home, every time I was home it was she was right upstairs 5 laying down trying to get as much pain relief as she could.” AR 72-73. He testified that Plaintiff’s 6 need to rest and for assistance continued through to the present time: “Again it’s still even to this 7 day it’s almost 100% of the time that I’m home she comes upstairs and lays down and takes a rest.

8 I try to leave work in the middle of the day when I have a prep period as much as I can to give her 9 relief. I go from teaching to coaching, we end our -- I end my teaching job at 3:15 and then I don’t 10 start coaching until 5:00. I try to run home in between then so that she can come upstairs and lay 11 down for 45 minutes or an hour and then before I have to go again.

Just any kind of relief and all- 12 day Saturday and all day Sunday she’s up here and I have, I have our son.” AR 73-74. 13 The ALJ described Plaintiff’s husband’s testimony but did not articulate any reason for 14 rejecting it. AR 23. Plaintiff argues the ALJ erred because his testimony provides further support 15 for her own testimony and shows that the ALJ’s findings were not based on substantial evidence.

16 Pl.’s Mot. at 7-8. Defendant counters that under the revised regulations “an ALJ is not required to 17 specifically address nonmedical, i.e., lay witness evidence.” Def.’s Mot. at 9. Alternatively, 18 Defendant argues that any error in failing to give germane reasons for rejecting the lay witness 19 testimony was harmless because the ALJ properly considered and rejected Plaintiff’s subjective 20 symptom testimony, which was similar to the lay witness testimony.

Id. at 11-12. 21 1. Legal Standard 22 “It is unsettled whether an ALJ is still required to consider lay witness evidence under the 23 revised regulations.” *Crummett v. King*, 2025 WL 470890, at *2 (9th Cir. Feb. 12, 2025) (citing 24 *Fryer v. Kijakazi*, 2022 WL 17958630, at *3 n.1 (9th Cir. Dec. 27, 2022)).

However, in the 25 absence of Ninth Circuit guidance, courts in this circuit have found the new regulations still 26 require an ALJ to at least consider lay witness testimony. *Joseph L. S. v. Kijakazi*, 2023 WL 27 5611408, at *5 (C.D. Cal. Aug. 30, 2023); *Jerald H. v. Comm’r of Soc. Sec.*, 2023 WL 6533477, at 1 (D. Ariz. Sept. 21, 2023); *Sharon W. v. Kijakazi*, 2023 WL 246391, at *8 (D.

Idaho Jan. 18, 2023). 2 Still, the new regulations provide “that an ALJ is ‘not required to articulate how [he] considered 3 evidence from nonmedical sources.’” *Stephens v. Kijakazi*, 2023 WL 6937296, at *2 (9th Cir. 4 Oct. 20, 2023) (quoting 20 C.F.R. §§ 404.1520c(d), 416.920c(d) (alterations in original). 5 2. Analysis 6 There is no dispute that the ALJ considered but did not articulate how she evaluated 7 Plaintiff’s husband’s testimony.

However, in light of recent Ninth Circuit guidance, the Court 8 finds the ALJ was not required to articulate germane reasons for her evaluation of such lay witness 9 testimony. See *Trogdon v. O’Malley*, 2024 WL 3949081, at *1 (9th Cir. Aug. 27, 2024) (“ALJ did 10 not err in discounting

the lay witness statement... without articulating germane reasons” because 11 “under the revised regulations applicable to this claim, the ALJ is ‘not required to articulate how 12 [he] considered evidence from nonmedical sources.’”) (quoting 20 C.F.R. § 404.1520c(d)).

13 Even if the ALJ were required to articulate germane reasons, the Court finds any failure to 14 do so is harmless. Because the ALJ “provided clear and convincing reasons for rejecting 15 [Plaintiff’s] own subjective complaints, and because [her husband’s] testimony was similar to such 16 complaints, it follows that the ALJ also gave germane reasons for rejecting [his] testimony.” See 17 *Valentine v. Comm’r Soc.*

Sec. Admin., 574 F.3d 685, 694 (9th Cir. 2009) (“In light of our 18 conclusion that the ALJ provided clear and convincing reasons for rejecting Valentine’s own 19 subjective complaints, and because Ms. Valentine’s testimony was similar to such complaints, it 20 follows that the ALJ also gave germane reasons for rejecting her testimony.”); *De Mello v. 21 Kijakazi*, 2022 WL 17583054, at *1 (9th Cir.

Dec. 12, 2022) (“[A]ny claimed error was harmless 22 because, given the similarity between [the lay witness’s testimony] and [the claimant’s] testimony, 23 the lay testimony did not alter the ultimate nondisability determination.”) (cleaned up); *Jacob v. 24 Berryhill*, 756 F. App’x 709, 711-12 (9th Cir. 2018) (“[A]ny error was harmless” in discounting 25 the lay witness testimony because the ALJ’s reasons for rejecting the claimant’s testimony applied 26 with equal force to the lay witness).

27 Accordingly, the Court finds the ALJ did not commit harmful error in her consideration of 1 E. Non-Examining Medical Consultant 2 Plaintiff next argues the ALJ gave improper weight to the non-examining medical 3 consultants’ opinions. Pl.’s Mot. at 8-9. 4 On November 3, 2022, at the initial determination stage, state agency medical consultant 5 E. Trias, M.D. found Plaintiff could perform at the medium exertional level (lifting/carrying fifty 6 pounds occasionally and twenty-five pounds frequently; sitting six hours out of an eight-hour 7 workday; standing/walking six hours out of an eight-hour workday; and pushing/pulling up to the 8 limits of lifting/carrying) with a further limitation of no more than frequent climbing of stairs and 9 ramps, ladders, ropes, and scaffolds, stooping, and crawling.

AR 84-97. On July 6, 2023, at the 10 reconsideration stage, state agency medical consultant L. DeSouza, M.D. found Plaintiff could 11 perform at the light exertional level (lifting/carrying twenty pounds occasionally and ten pounds 12 frequently; sitting six hours out of an eight-hour workday; standing/walking six hours out of an 13 eight-hour workday; and pushing/pulling up to the limits of lifting/carrying) with a further 14 reduction of standing/walking to four hours out of an eight-hour workday (with an allowance to 15 alternate sitting and standing for 25 seconds every hour to relieve low back pain), with no 16 climbing of ladders, ropes, and scaffolds, no more than

occasional climbing of stairs and ramps, 17 kneeling, crouching, and crawling and no more than frequent balancing, and that Plaintiff must 18 also avoid even moderate exposure to hazards.

AR 100-07. The ALJ found Dr. DeSouza's 19 opinion was more persuasive because it was more consistent with Plaintiff's statements of her 20 activities than the less restrictive prior administrative medical finding of Dr. Trias. AR 27-28. 21 Plaintiff argues Dr. DeSouza's opinion was not consistent with and supported by the full 22 overall record, and the ALJ erred in giving the greatest weight to this opinion.

Pl.'s Mot. at 9. 23 While the ALJ noted that Dr. DeSouza's opinion was not consistent with Plaintiff's own 24 testimony, Plaintiff argues the ALJ's analysis was not based on a full reading of the record when 25 discussing her statements to her providers. She argues the ALJ "essentially cherry picked 26 statements from [her] records instead of considering the full context of the treatment records and 27 [her] specific complaints of ongoing pain and limitation." Id. 1 1.

Legal Standard 2 For Social Security claims filed after March 27, 2017, the ALJ is required to assess the 3 persuasiveness of medical opinions in the record using the regulations outlined in 20 C.F.R. §§ 4 404.1520c and 416.920c. See Woods, 32 F.4th at 791-93 (embracing the Commissioner's new 5 regulatory framework for evaluating medical opinions).

The new regulations eschew the former 6 hierarchy of medical opinions and no longer require the ALJ to afford greater weight to the 7 opinions of treating physicians. See id. at 787; see also 20 C.F.R. §§ 404.1520c(a), 416.920c(a) 8 ("We will not defer or give any specific evidentiary weight, including controlling weight, to any 9 medical opinion(s) or prior administrative medical finding(s), including those from your medical 10 sources").

11 Under these new regulations, the ALJ is asked to consider five factors: (1) supportability, 12 (2) consistency, (3) relationship with the claimant, (4) specialization, and (5) other facts including 13 but not limited to a medical source's familiarity with the other evidence in the claim or an 14 understanding of the disability program's policies and evidentiary requirements.

See 20 C.F.R. §§ 15 404.1520c(c)(1)-(5), 416.920c(c)(1)-(5). Of these five, the ALJ must address supportability and 16 consistency in each assessment and may, but is not required to, explain how they considered the 17 remaining three factors. See 20 C.F.R. §§ 404.1520c(b)(2), 416.920c(b)(2). "Supportability 18 means the extent to which a medical source supports the medical opinion by explaining the 19 'relevant... objective medical evidence.'" Woods, 32 F.4th at 791-92; see also 20 C.F.R. §§ 20 404.1520c(c)(1), 416.920c(c)(1) ("The more relevant the objective medical evidence and 21 supporting explanations presented by a medical source are to support his or her medical opinion(s) 22 or prior administrative medical finding(s), the more persuasive the medical opinions or prior 23 administrative medical finding(s) will be"). "Consistency means the extent to which a medical 24 opinion is 'consistent... with the evidence from other medical sources and nonmedical

sources in 25 the claim.” Woods, 32 F.4th at 792; see also 20 C.F.R. §§ 404.1520c(c)(2), 416.920c(c)(2) (“The 26 more consistent a medical opinion(s) or prior administrative medical finding(s) is with the 27 evidence from other medical sources and nonmedical sources in the claim, the more persuasive the 1 2.

Analysis 2 The Court finds the ALJ properly considered and discussed supportability and consistency 3 when she assessed the persuasiveness of the prior administrative medical findings. In considering 4 the record, the ALJ found Plaintiff’s range of activities of daily living were inconsistent with her 5 allegations of work preclusive symptoms, but consistent with many of her statements of activities 6 to providers and generally consistent with Dr. DeSouza’s findings.

AR 26-27. For example, the 7 ALJ noted Plaintiff was able to do her physical therapy exercises five to seven days per week, able 8 to ride a stationary bike recommended by providers as well as pool therapy, could power walk for 9 90 minutes and ride a bike cruiser short distances, could drive up to 1.25 hours before 10 experiencing numbness, engaged in household chores and shopping, traveled to her mother’s 11 house to assist her, and took trips out of town.

AR 27 (citing AR 443, 551-52, 1478-79). The 12 ALJ’s RFC findings regarding physical limitations were consistent with most of Dr. DeSouza’s 13 findings except that the ALJ found Plaintiff more limited in finding she could occasionally 14 balance; should avoid concentrated exposure to extreme cold and vibration; and could sit/stand at 15 will. AR 23, 28.

The ALJ made clear that the RFC determination gave “greater leeway in 16 determining the frequency and duration of her bouts of stretching by allowing her a sit/stand 17 option that could accommodate up to four hours of standing/walking as well as identifying jobs 18 that can be performed within the parameters of the sedentary exertional level.” AR 28.

The ALJ’s 19 overall findings regarding Dr. DeSouza’s findings were consistent with the current regulatory 20 scheme and supported by substantial evidence. 21 While Plaintiff disagrees with the ALJ’s interpretation of Dr. DeSouza’s findings and the 22 record, even if her alternative interpretation of the record is reasonable, the existence of an 23 alternative interpretation of the evidence does not mean that the ALJ erred.

See Batson, 359 F.3d 24 at 1193 (“[I]f evidence exists to support more than one rational interpretation, we must defer to the 25 Commissioner’s decision.”). While Plaintiff argues the ALJ “essentially cherry picked 26 statements” from the record, the administrative medical findings are the only findings in the record 27 detailing Plaintiff’s limitations, and the ALJ’s RFC determination was more limited than their 1 not cherry-pick isolated examples of improvement,” when “[t]he instances the ALJ pointed to 2 spanned several months”); see Smith v. Berryhill, 752 Fed.

App'x 473, 475-76 (9th Cir. 2019) 3 ("Smith correctly notes that fibromyalgia symptoms can wax and wane, but the ALJ did not 4 cherry-pick the medical record and it contradicts several of her symptom complaints."). As the 5 trier of fact, the ALJ's findings are entitled to deference. See Ford, 950 F.3d at 1159 ("Our review 6 of an ALJ's fact-finding for substantial evidence is deferential, and '[t]he threshold for such 7 evidentiary sufficiency is not high'" (quoting Biestek, 587 U.S. at 102)).

Accordingly, the Court 8 finds the ALJ's decision must be affirmed. 9 F. Vocational Expert 10 At the administrative hearing, the ALJ presented the following hypothetical: 11 In the first hypothetical please assume a hypothetical individual the Claimant's age and education and the past jobs you've described, and 12 assume that this person has a residual functional capacity to perform less than a full range of light work.

In this hypothetical the person can 13 sit for six or more hours and can stand or, and/or walk for six hours in an eight-hour workday. This person can never climb ladders, ropes 14 or scaffolds, this person can occasionally climb ramps and stairs, occasionally balance, occasionally stoop, kneel, crouch and crawl, 15 this person can never work at unprotected heights, should never work with exposed moving mechanical parts, this person should avoid 16 concentrated exposure to extreme cold and to vibration.

17 AR. 76. In response, the expert testified the person could perform all of Plaintiff's past relevant 18 work as a leasing manager, auto rental clerk, dental orthodontist scheduler/coordinator, 19 bookkeeper, and office manager, well as other positions that exist in the national economy. AR 20 75-76. 21 The ALJ then asked if a person with the same limitations "but with a sit/stand option just 22 four hours standing and standing and walking up to a total of that in four hours of an eight-hour 23 workday" could still perform Plaintiff's past work.

AR 77. The expert responded the person 24 could still work as a leasing manager, bookkeeper, and office manager, but could not work as an 25 auto rental clerk and dental scheduler. Id. When the ALJ asked if a person with the same 26 limitations but "a reduced ability to stand and walk up to a total of four hours" could perform the 27 same positions, the expert responded the person could still work as an office helper, as well as a 1 to lifting and carrying ten pounds occasionally and less than ten pounds frequently, they could sit 2 for six or more hours but were limited to standing and/or walking up to two hours total." AR 79.

3 The expert testified the person could still work as a scheduler and bookkeeper, and could also 4 work as an order clerk, appointment setter. AR 79-80. 5 Based on the expert's testimony, the ALJ found that an individual with Plaintiff's RFC and 6 other vocational factors could perform the requirements of her past relevant work. AR 29-30. 7 Plaintiff argues "the vocational witness testimony in response to the ALJ's hypothetical 8 was of no evidentiary value" because it did not

include “exertional and non-exertional limitations 9 related to her spinal impairments.” Pl.’s Mot. at 9-10.

10 1. Legal Standard 11 “[A] vocational expert or specialist may offer expert opinion testimony in response to a 12 hypothetical question about whether a person with the physical and mental limitations imposed by 13 the claimant's medical impairment(s) can meet the demands of the claimant's previous work, either 14 as the claimant actually performed it or as generally performed in the national economy.” 20 15 C.F.R. § 404.1560(b)(2).

An ALJ’s reliance on qualified, cogent, and uncontradicted expert 16 testimony generally constitutes substantial evidence in support of an ALJ’s finding. See *Ford*, 950 17 F.3d at 1159. 18 2. Analysis 19 Plaintiff does not specify which limitations the ALJ failed to include, other than generally 20 referring to exertional and non-exertional limitations related to her spinal impairments. “However, 21 there is no requirement for the RFC to include those limitations the ALJ found to be unsupported 22 by the evidence of record.” *Pamela M. v. Kijakazi*, 2021 WL 4461546, at *13 (N.D.

Cal. Sept. 29, 23 2021) (citing *Bayliss v. Barnhart*, 427 F.3d 1211, 1217 (9th Cir. 2005) (reasoning the 24 “hypothetical that the ALJ posed to the VE contained all of the limitations that the ALJ found 25 credible and supported by substantial evidence in the record,” the “ALJ’s reliance on testimony the 26 VE gave in response to the hypothetical therefore was proper”); *Rollins*, 261 F.3d at 857 (“The 27 omitted limitations, however, were only those that the ALJ found did not exist.

Because the ALJ 1 substantial evidence, the ALJ did not err in omitting the other limitations that *Rollins* had claimed, 2 || failed to prove.”). Here, the ALJ’s hypothetical questions contained limitations she found 3 were supported by substantial evidence (compare AR 20 (RFC assessment) with AR 76-80 4 (hypothetical questions)). Rather than cite to any medical evidence in the record that shows 5 otherwise, Plaintiff appears to rely on her subjective testimony regarding her back impairments.

6 || However, as discussed above, the ALJ articulated several legally sufficient reasons for finding 7 || Plaintiffs subjective testimony inconsistent with the evidence of record. See *Stubbs-Danielson v. Astrue*, 539 F.3d 1169, 1175-76 (9th Cir. 2008) (“In arguing the ALJ’s hypothetical was 9 incomplete, *Stubbs—Danielson* simply restates her argument that the ALJ’s RFC finding did not 10 account for all her limitations because the ALJ improperly discounted her testimony and the 11 testimony of medical experts.

As discussed above, we conclude the ALJ did not.”). As such, the 12 || ALJ’s decision must be affirmed. 13 VI. CONCLUSION 14 For the reasons stated above, the Court DENIES Plaintiff’s motion and GRANTS 3 15 || Defendant’s cross-motion.

The Court shall enter a separate judgment, after which the Clerk of a 16 || Court shall terminate the case. IT IS SO ORDERED. 19 Dated: October 14, 2025 20 TAA. THOMAS S. HIXSON 21 United States Magistrate Judge 22 23 24 25 26 27 28

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