

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
WASHINGTON

**Rosa R. v. Frank Bisignano O'Malley, Commissioner of Social
Security**

No. 4:25-CV-5087-EFS (E.D. Wash. Dec. 17, 2025) · No. No. 4:25-CV-5087-EFS · Decided December 17,
2025

OPINION

1 Dec 17, 2025 2 SEAN F. MCAVOY, CLERK 3 UNITED STATES DISTRICT COURT 4
EASTERN DISTRICT OF WASHINGTON 5 6 ROSA R.,1 No. 4:25-CV-5087-EFS 7 Plaintiff, 8
ORDER AFFIRMING THE v. ALJ'S DENIAL OF BENEFITS 9 FRANK BISIGNANO
O'MALLEY, 10 Commissioner of Social Security, 11 Defendant. 12 13 14 Due to a marginal
education, fibromyalgia, shoulder injuries, 15 headaches, anxiety, and major depressive disorder,
Plaintiff Rosa R. 16 claims that she is unable to work fulltime and applied for disability 17
benefits and supplemental security income benefits.

She appeals the 18 19 denial of benefits by the Administrative Law Judge (ALJ) on the 20 21 1
For privacy reasons, Plaintiff is referred to by first name and last 22 initial or as "Plaintiff." See
LCivR 5.2(c). 23 1 grounds that the ALJ improperly found that Plaintiff had a marginal 2
education rather than illiteracy, and improperly assessed Plaintiff's 3 credibility as to her
headaches.

As is explained below, Plaintiff has not 4 established any consequential error. The ALJ's denial of
benefits is 5 affirmed. 6 I. Background 7 8 In June 2022, Plaintiff filed an application for benefits
under 9 Title 2 and in April 2023 filed an application for benefits under Title 10 16, claiming
disability beginning February 1, 2020, based on the 11 physical and mental impairments noted
above.2 Plaintiff's claims were 12 denied at the initial and reconsideration levels.3 13 After the
agency denied Plaintiff benefits, ALJ David Johnson 14 15 held a telephone hearing in May 2024,
at which Plaintiff appeared with 16 17 18 19 20 21 2 AR 362-368, 369-377, 401.

22 3 AR 167, 173, 180, 185. 23 1 her representative.4 Plaintiff and a vocational expert testified.5
An 2 interpreter assisted Plaintiff during the hearing.6 3 After the hearing, the ALJ issued a
decision denying benefits.7 4 The ALJ found Plaintiff's alleged symptoms were not entirely 5
consistent with the medical evidence and the other evidence.8 As to 6 medical opinions, the ALJ
found: 7 8 • The opinions of state agency consultants Merry Alto, MD, 9 and Michael Brown,
PhD, to be persuasive.

10 • The opinions of consultative examiners Marquetta 11 Washington, ARNP, and Emily Ketchel, PMHNP, to be not 12 persuasive. 13 14 15 16 4 AR 78-103. 17 5 Id. 18 6 Id. 19 20 7 AR 16-45. Per 20 C.F.R. §§ 404.1520(a)-(g); 416.920(a)-(g), a five-step 21 evaluation determines whether a claimant is disabled. 22 8 AR 29-33. 23 1 • The opinions of state agency evaluators David Morgan, 2 PhD, and Holly Petaja, PhD, to be not persuasive.

3 • The opinions of examining and treating sources Kirk Holle, 4 PT; William Domarad, DO; Ronald Early, PhD; Scott 5 Hutson, MD; Mary Anne Rose Cunningham, MD; Rodney 6 Johnson, MD; Cathryn Vadala, MD; and Heather Phipps, 7 8 DO, to be unpersuasive because they pertain to Plaintiff's 9 ability to return to her prior work.9 10 As to the sequential disability analysis, the ALJ found: 11 • Step one: Plaintiff met the insured status requirements 12 through December 31, 2023, and had not engaged in 13 substantial gainful activity since June 21, 2022, the alleged 14 15 onset date.

16 • Step two: Plaintiff had the following medically determinable 17 severe impairments: obesity, fibromyalgia, shoulder 18 abnormalities, headaches, anxiety, and major depressive 19 disorder. 20 21 22 9 AR 34-36. 23 1 • Step three: Plaintiff did not have an impairment or 2 combination of impairments that met or medically equaled 3 the severity of one of the listed impairments, and the ALJ 4 specifically considered Listings 1.18, 14.09, 11.02, 12.04, 5 and 12.06.

6 • RFC: Plaintiff had the RFC to perform light work with the 7 8 following exceptions: 9 [work] that consists of simple instructions; that consists of the same tasks over and over; that does not require 10 more than occasional interaction; and that is performed 11 where the general public is typically not present. 12 • Step four: Plaintiff is unable to perform her past relevant 13 work as an agricultural sorter or industrial cleaner.

14 • Step five: considering Plaintiff's RFC, age, education, and 15 work history, Plaintiff could perform work that existed in 16 significant numbers in the national economy, such as a 17 18 small products assembler (DOT 739.687-030), router (DOT 19 222.587-038), and collator operator (DOT 208.685-010).10 20 21 22 10 AR 24-38. 23 1 Plaintiff timely appealed the denial to the Appeals Council and to 2 this Court.11 3 II.

Standard of Review 4 The ALJ's decision is reversed "only if it is not supported by 5 substantial evidence or is based on legal error,"12 and such error 6 impacted the nondisability determination.13 Substantial evidence is 7 8 "more than a mere scintilla but less than a preponderance; it is such 9 relevant evidence as a reasonable mind might accept as adequate to 10 support a conclusion."14 11 12 13 11 AR 359; ECF No. 1.

14 12 Hill v. Astrue, 698 F.3d 1153, 1158 (9th Cir. 2012). See 42 U.S.C. § 15 405(g). 16 13 Molina v. Astrue, 674 F.3d 1104, 1115 (9th Cir. 2012), superseded on 17 other grounds by 20

C.F.R. § 416.920(a) (recognizing that the court may not reverse an ALJ decision due to a harmless error—one that “is inconsequential to the ultimate nondisability determination”).

Hill, 698 F.3d at 1159 (quoting *Sandgathe v. Chater*, 108 F.3d 978, 22 980 (9th Cir. 1997)). See also *Lingenfelter v. Astrue*, 504 F.3d 1028, 23 1 III. Analysis 2 Plaintiff seeks relief from the denial of disability on two grounds. 3 She argues the ALJ erred when he found that she had a marginal 4 education and did not deem her to be illiterate and erred when 5 evaluating Plaintiff’s subjective complaints regarding her headaches.

6 As is explained below, the Court concludes that Plaintiff fails to 7 8 establish the ALJ erred in his evaluation of Plaintiff’s ability to read 9 and write in Spanish, or Plaintiff’s symptom reports. 10 11 12 13 14 15 16 1035 (9th Cir. 2007) (The court “must consider the entire record as a 17 whole, weighing both the evidence that supports and the evidence that 18 detracts from the Commissioner’s conclusion,” not simply the evidence 19 20 cited by the ALJ or the parties.) (cleaned up); *Black v. Apfel*, 143 F.3d 21 383, 386 (8th Cir.

1998) (“An ALJ’s failure to cite specific evidence does 22 not indicate that such evidence was not considered[.]”). 23 1 A. Allegations of Illiteracy: Plaintiff fails to establish 2 consequential error. 3 Plaintiff argues the ALJ erred by finding that she had a limited 4 education rather than by finding that she was illiterate.¹⁵ Specifically, 5 Plaintiff argues that the ALJ erred in not including a provision in the 6 RFC that she is illiterate and avers that the ALJ’s belief that Plaintiff 7 8 is able to read is based on a misunderstanding or mischaracterization 9 of Plaintiff’s activities.

The Commissioner argues that the ALJ relied 10 on multiple inconsistencies between Plaintiff’s hearing testimony and 11 the record as whole to conclude that Plaintiff is not illiterate.¹⁶ 12 1. Standard 13 14 In 2020, 20 C.F.R. §§ 404.1564(b) and 416.964(b) were amended 15 to omit the requirement that the ALJ consider the claimant’s ability to 16 17 18 19 20 21 15 ECF No. 9.

22 16 ECF No. 11. 23 1 read and understand English when evaluating education. The 2 amended regulation was effective April 27, 2020.¹⁷ 3 Plaintiff’s claim was filed in June 2022; therefore, the amended 4 regulation applies. 5 20 C.F.R. §§ 404.1564 and 416.964 provide: 6 (1) Illiteracy. Illiteracy means the inability to read or write. 7 We consider someone illiterate if the person cannot read or 8 write a simple message such as instructions or inventory lists even though the person can sign his or her name.

Generally, 9 an illiterate person has had little or no formal schooling. 10 (2) Marginal education. Marginal education means ability in 11 reasoning, arithmetic, and language skills which are needed to do simple, unskilled types of jobs.

We generally consider 12 that formal schooling at a 6th grade level or less is a marginal education. 13 (3) Limited education. Limited education means ability in 14 reasoning, arithmetic, and

language skills, but not enough to allow a person with these educational qualifications to do most of the more complex job duties needed in semi-skilled or skilled jobs.

We generally consider that a 7th grade through the 11th grade level of formal education is a limited education.^{18 19 20 21 17} See 85 FR 10586-01, 2020 WL 885690 (Feb. 25, 2020); see also Social Security Ruling (SSR) 20-01p, 2020 WL 1083309, n. 8 (Mar. 9, 2020).^{23 1} Additionally, on March 9, 2020, the Administration published a new Social Security Ruling, SSR 20-1p, which interpreted the new regulation.^{30 4} SSR 20-01p provides: 5 A. Generally 6 We consider an individual illiterate if he or she cannot read or write a simple message, such as instructions or inventory 7 lists, even though the individual can sign his or her name.

8 We will assign an individual to the illiteracy category only if the individual is unable to read or write a simple message in 9 any language. 10 B. Formal Education and the Ability To Read and Write a 11 Simple Message Generally, an individual's educational level is a reliable 12 indicator of the individual's ability to read and write a simple message. A strong correlation exists between formal 13 education and literacy, which under our rules means an ability to read and write a simple message.

Most individuals 14 learn to read and write at least a simple message by the time 15 they complete fourth grade, regardless of whether the schooling occurred in the United States or in another 16 country. We will therefore use an individual's formal education level as the starting point to determine whether 17 the individual is illiterate. (emphasis added)^{18 18 19 20 18} SSR 20-1p: How We Determine an Individual's Education Category, 21 2020 WL 1083309 (March 9, 2020).

22 23 1 2. Statements Submitted by Plaintiff and Her Third-Party 2 Witness 3 In her Disability Report filed on July 7, 2022, Plaintiff reported 4 that she was not able to read or write in English¹⁹, but that she can 5 read, write, and understand a short, simple message in Spanish.^{20 6} Months later, on September 14, 2022, Plaintiff completed an Adult 7 8 Function Report in which she stated that she writes reminders in the 9 calendar to take her medication but forgets to look at the calendar.^{21 10} She said, "If I am reading a book, my mind is elsewhere, I cannot 11 concentrate."²² She wrote that she does not follow written instructions 12 well, for example missing her medication, because of her memory 13 issues.^{23 14 15 16 17 19} AR 400.

18 20 AR 402. 19 20 21 AR 412. 21 22 AR 415. 22 23 Id. 23 1 On May 4, 2023, Plaintiff's friend Maria Rojas Flores completed a 2 Third-Party Function report for her.²⁴ Ms. Flores wrote that Plaintiff's 3 hobbies were to watch TV or read but stated that Plaintiff is limited to 4 reading 15 minutes at a time because if she reads longer her head will 5 start to hurt.^{25 6 7 3.}

Relevant Medical Records 8 On February 4, 2020, at a functional capacity evaluation 9 performed by Columbia Physical Therapy, Plaintiff reported that she 10 never went to school and her parents taught her to read and write.^{26 11} On March 9, 2020, Plaintiff presented to Ronald Early, PhD, for

12 an evaluation at the request of her attorney.²⁷ Dr. Early noted that 13 14 Plaintiff reported that “she reads the bible frequently and prays to get 15 better.”²⁸ 16 17 24 AR -445 18 25 AR 442.

19 20 26 AR 728. 21 27 AR 770. 22 28 AR 776. 23 1 On June 9, 2021, Hilary Richardson, PhD, noted: 2 “Pt reports being unable to read, so efforts should be made to thoroughly verbally explain.”²⁹ On July 7, 2021, 3 Dr. Richardson wrote “stated goal of no longer feeling 4 anxiety/fear around talking to her ex. has been trying to practice writing answers [in English] for the citizenship exam 5 but can't internalize any of the info [can't read/write Spanish either].”³⁰ 6 On July 28, 2021, Dr. Richardson wrote: “Note: pt unable to read, 7 8 so efforts should be made to thoroughly verbally explain recs).

Patient 9 plan: See Assessment & Plan; Treatment Modality: ACT. 10 Psychoeducation/Interventions: self-compassion, 11 acceptance/willingness techniques, awareness/present/mindfulness 12 moment skills, defusion, values engagement and relaxation 13 techniques.”³¹ 14 15 On September 13, 2021, Hilary Richardson, PhD wrote: 16 Presents with: depression, divorce, hx of DV, family conflict, chronic pain and same as last BHC visit (Today's impression: 17 still working on studying for the citizenship exam. ppl from 18 New Hope provided study materials [in Eng & Span] and are 19 20 29 AR 561.

21 30 AR 559. 22 31 AR 556. 23 1 enc'ing her to cont' working on it, but she can't read in either language. lawyer at La Casa Hogar said the only way for pt 2 to get accommodation for exam will be for a licensed psychologist or physician to complete paperwork 3 documenting a sufficient justification for this.³² 4 On October 19, 2021, Dr. Richardson, wrote: 5 (Pt cont's to pursue her goal of taking/passing the citizenship 6 exam, despite facing seemingly insurmountable barriers; pt had no education as a child so never learned to read/ write in 7 Spanish, suffered disabling injuries that still cause her daily 8 pain & prevent her from working, left her [2nd] abusive husband so now has no financial support, & is trying to take 9 the citizenship exam which requires pt to read/ write in English. pt has been diligently studying, trying to learn 10 enough English to manage the test, but reading/writing are 11 brand new skills which take time to consolidate & her learning is hampered by her chronic pain & migraines.³³ 12 On March 10, 2022, Graciela Ortiz, MSW of Highland Clinic 13 diagnosed illiteracy and wrote: 14 15 (Pt continues to have migraines when studying for her citizen exam.

Pt's teacher puts her down d/t making comments about 16 "by this stage you should have learned so many questions". Pt is anxious/worried for not being able to memorize the 17 questions d/t never learning to read/write in the past. Pt goes 18 to online classes for 2hrs (Mon-Wed) and studies the rest of the days. Sometimes her chronic pain makes it difficult for 19 her to get out of her bed and impacts on doing things that she 20 21 32 AR 550.

22 33 AR 545. 23 1 enjoys.). Progress on plan: (1. When you're frustrated with forgetting things you've studied, remind yourself that what 2 you're doing is hard & you're doing your best.-

completed, she has been motivating herself but she forgets what she learned. 3 2.Continue taking breaks as you study!-completed. 4 3.Continue making time to knit, cook, and do things for yourself.-she stopped d/t pain and numbing hands.

4.You 5 may schedule an appt to meet w/ a medical provider to discuss possibility of completing paperwork re: citizenship 6 exam; decision will be up to them.- If this approach doesn't work out, we can explore other options. -Did not complete, did 7 not see provider.). Impact on overall function is described as 8 moderate. Symptom reduction is described as mild.³⁴ 9 She also wrote: "Pt continues to pursue her goal of passing her 10 Citizenship exam, even though she never learned how to read/write 11 growing up and d/t her daily pain."³⁵ 12 On December 27, 2022, Plaintiff was examined by Emily Ketchel, 13 PMHNP, who noted that Plaintiff reported she could only read for 5 14 15 minutes before her head hurts.³⁶ 16 On March 15, 2023, Plaintiff presented to Elodia Rocha- 17 Gutierrez, MSW, who noted that Plaintiff stated: "I read things but 18 19 20 34 AR 518.

21 35 Id. 22 36 AR 631. 23 1 can't remember what I read. I forget everything."³⁷ She noted further 2 that "Pt reports she was paying for citizenship classes via the 3 telephone for about a year and states "I paid for the classes to study for 4 citizenship and I finally decided to stop because I couldn't remember 5 anything and I was just throwing money away.""³⁸ Further, when 6 asked how she managed symptoms Plaintiff reported that she would 7 8 listen to music or read.³⁹ 9 4.

Analysis 10 a. The ALJ's consideration of the issue of education and 11 illiteracy 12 The ALJ gave the following reasoning as to his consideration of 13 14 Plaintiff's allegations of illiteracy: 15 Although she reported she could not read or write in Spanish or English, elsewhere she did report reading, even 16 though it was difficult (Ex. B2E; B3F/21, 48; B15F/7; B22F/4) and reading a book was recommended as a coping 17 mechanism for her (Ex.

B22F/54, 55). A February 2020 18 physical evaluation report also noted the claimant was able 19 20 37 AR 837. 21 38 Id. 22 39 Id. 23 1 to understand written instructions without difficulty and communicated appropriately (Ex. B13F/14).

In March 2020, 2 she also reported reading the Bible frequently (Ex. B15F/7). In March 2022, the claimant also reported she was taking 3 online classes and studying afterwards the rest of the days 4 for her citizen's exam (Ex. B3F/21), inconsistent with her reports elsewhere about functional abilities and limitations. 5 Her friend also acknowledges that the claimant is able to read as a hobby/interest (Ex.

B8E/5). Additionally, her past 6 work as a cleaner, industrial (DOT 381.687-018) required a general educational development language level of 2, which 7 indicates some reading ability.⁴⁰ 8 Plaintiff argues that the ALJ erred in making assumptions based 9 on the record, specifically

arguing that the ALJ assumed that reports 10 11 that she “studied” for her online classes implied she was reading rather 12 than watching videos, that he erred in failing to consider that 13 Plaintiff’s reports regarding “reading” the bible might have meant 14 listening to an audio book, and that he erred in considering that 15 Plaintiff had worked in the past at a job that required a reading level of 16 2.

17 18 The Court notes that the most comprehensive testimony given by 19 Plaintiff as to her reading abilities is in her answers to the July 7, 20 21 22 40 AR 33-34. 23 1 2022, Disability Report in which she reported that she was unable to 2 read or write in English but was able to read, write, and understand 3 instructions or at least a simple message in Spanish.⁴¹ While other 4 reports in the record can be subject to interpretation as to whether 5 Plaintiff was reporting her ability to read and write English rather 6 than Spanish, in this report Plaintiff’s report was unequivocal that she 7 8 can read and write in Spanish but not in English.

9 Plaintiff’s statement that she can read and write in Spanish is 10 consistent with her other statements such as her statement that when 11 she is reading a book her mind wanders,⁴² that she writes herself 12 reminders,⁴³ or that “does not follow written instructions well.”⁴⁴ It is 13 notable that Plaintiff did not state that she cannot read written 14 15 16 17 18 41 AR 402.

19 20 42 AR 415. 21 43 AR 412. 22 44 AR 415. 23 1 instructions, but said she does not follow them well due to memory 2 issues.⁴⁵ 3 Similarly, Plaintiff’s friend and witness, Ms. Flores, testified that 4 Plaintiff’s hobbies were watching TV and reading.⁴⁶ She stated that 5 reading for more than 15 minutes will cause headaches for Plaintiff.⁴⁷ 6 Again, this statement was consistent with both Plaintiff’s report that 7 8 she can read Spanish and that she reads the bible.⁴⁸ 9 The record indicates that Plaintiff reported a great deal of 10 anxiety that she was required to read and write in English in order to 11 pass her citizenship examination, but her reports to psychologists were 12 made in the context of requesting a written note documenting a 13 justification for an accommodation not requiring a written English 14 15 examination.

16 17 18 45 Id. 19 20 46 AR 442. 21 47 Id. 22 48 AR 776. 23 1 The record provides substantial support for the ALJ’s findings. 2 Because the Court concludes that the ALJ did not fail to consider 3 Plaintiff’s testimony, daily activities, and the record as a whole when 4 assessing Plaintiff’s ability to read and write in “any” language, the 5 ALJ did not err in finding that Plaintiff had a marginal education.

6 Thus, the Court concludes that the ALJ did not err in his 7 8 consideration of Plaintiff’s alleged illiteracy. 9 5. Summary 10 Because the ALJ committed no error in his consideration of the 11 multiple inconsistencies between Plaintiff’s allegations that she was 12 illiterate and the record, which indicates that she is able to read in 13 14 Spanish, the Court finds that no consequential error occurred, and a 15 remand is not warranted.

16 B. Symptom Reports: Plaintiff fails to establish 17 consequential error 18 Plaintiff argues the ALJ failed to properly assess her subjective 19 complaints regarding migraine headaches. Plaintiff argues that the 20 21 ALJ erred because he “referenced physical exams and workups that 22 23 1 indicated generally normal findings.”⁴⁹ Plaintiff asserts that physical 2 examination results would not provide relevant evidence regarding the 3 existence of a migraine.

4 1. Standard 5 When examining a claimant’s symptoms, the ALJ utilizes a two- 6 7 step inquiry. “First, the ALJ must determine whether there is objective 8 medical evidence of an underlying impairment which could reasonably 9 be expected to produce the pain or other symptoms alleged.”⁵⁰ Second, 10 “[i]f the claimant meets the first test and there is no evidence of 11 malingering, the ALJ can only reject the claimant’s testimony about 12 the severity of the symptoms if [the ALJ] gives ‘specific, clear and 13 14 convincing reasons’ for the rejection.”⁵¹ General findings are 15 insufficient; rather, the ALJ must identify what symptom claims are 16 17 18 49 ECF No. 9.

19 20 50 *Molina*, 674 F.3d at 1112. 21 51 *Ghanim v. Colvin*, 763 F.3d 1154, 1163 (9th Cir. 2014) (quoting 22 *Lingenfelter*, 504 F.3d at 1036). 23 1 being discounted and what evidence undermines these claims.⁵² “The 2 clear and convincing standard is the most demanding required in 3 Social Security cases.”⁵³ Therefore, if an ALJ does not articulate 4 specific, clear, and convincing reasons to reject a claimant’s symptoms, 5 the corresponding limitations must be included in the RFC.⁵⁴ 6 7 8 9 10 11 52 *Id.* (quoting *Lester v. Chater*, 81 F.3d 821, 834 (9th Cir.

1995), and 12 13 *Thomas v. Barnhart*, 278 F.3d 947, 958 (9th Cir. 2002) (requiring the 14 ALJ to sufficiently explain why he discounted claimant’s symptom 15 claims)). 16 53 *Garrison v. Colvin*, 759 F.3d 995, 1015 (9th Cir. 2014) (quoting *Moore v. Comm’r of Soc. Sec. Admin.*, 278 F.3d 920, 924 (9th Cir. 2002)). 18 54 *Lingenfelter*, 504 F.3d at 1035 (“[T]he ALJ failed to provide clear and 19 20 convincing reasons for finding *Lingenfelter*’s alleged pain 21 and symptoms not credible, and therefore was required to include these 22 limitations in his assessment of *Lingenfelter*’s RFC.”).

23 1 2. Plaintiff’s Testimony 2 Plaintiff testified that she was born on December 24, 1973.⁵⁵ 3 When the ALJ noted that she was reading from a sheet or paper, she 4 said she was reading the date but only knew how to write her name 5 and birthday.⁵⁶ She is 5 feet tall and does not know her weight.⁵⁷ 6 Plaintiff said she never went to school as a child because she lived on a 7 8 ranch, but she did go to school later but did not remember what they 9 taught her.⁵⁸ She said that she does not remember when she went to 10 school but it was about 20 years since.⁵⁹ 11 Plaintiff said she was homeless for the last year and had rented a 12 room prior to that.⁶⁰ She last worked in 2018.

61 She said she got hurt 13 14 15 55 AR 85. 16 56 AR 85-86. 17 57 AR 86. 18 58 *Id.* 19 20 59 AR 87. 21 60 *Id.* 22 61 *Id.* 23 1 at her job and has not been able to work because she has headaches 2

and her arms go numb.⁶² She said she has headaches daily and that ³ about 3 days a month she has headaches so bad that she has nausea ⁴ and vomiting.⁶³ She says she does not smoke or drink and last had ⁵ alcohol 3 years prior.⁶⁴ She said she has not smoked marijuana and ⁶ that she uses only Tylenol and aspirin for headaches.⁶⁵ ⁷ ⁸ Plaintiff said she is in counseling and attends physical therapy ⁹ and that she spends her time lying down until her medication helps ¹⁰ with her pain.⁶⁶ She said that she watches TV and that for the last year ¹¹ she has not been able to sew or stitch because of pain in her hands.⁶⁷ ¹² She buys microwave meals and stores the food at a friend's house.⁶⁸ ¹³ ¹⁴ ¹⁵ ⁶² AR 88.

¹⁶ ⁶³ Id. ¹⁷ ⁶⁴ AR 88-89. ¹⁸ ⁶⁵ AR 89. ¹⁹ ²⁰ ⁶⁶ AR 90. ²¹ ⁶⁷ Id. ²² ⁶⁸ AR 90-91. ²³ ¹ She sleeps in her car because her friend smokes and this makes her ² sick and causes headaches.⁶⁹ She only drives to her appointments.⁷⁰ ³ Plaintiff testified that about 9 days a month she has headaches so ⁴ bad she will vomit and some months it is more.⁷¹ She said that on those ⁵ days she does not watch tv, she just stays in her car and vomits.⁷² She ⁶ said she cannot read or write Spanish and that if she goes to a ⁷ ⁸ restaurant she will ask for a menu with pictures.⁷³ She said that when ⁹ she went to the ER in Yakima her head hurt and she did not remember ¹⁰ if she told the ER doctors she was taking medication.⁷⁴ ¹¹ ³.

Relevant Medical Records ¹² On October 19, 2021, Plaintiff presented to Hilary Richardson, ¹³ ¹⁴ PhD, complaining that she was experiencing migraine headaches while ¹⁵ ¹⁶ ⁶⁹ AR 91. ¹⁷ ⁷⁰ Id. ¹⁸ ⁷¹ Id. ¹⁹ ²⁰ ⁷² AR 92. ²¹ ⁷³ Id. ²² ⁷⁴ AR 92-93. ²³ ¹ studying for her citizenship exam.⁷⁵ She noted that reading and writing ² were new skills and that the migraines were hampering her ability to ³ learn.⁷⁶ ⁴ On January 13, 2022, Plaintiff presented to ARNP Jennifer ⁵ McGindt, with complaints of headaches she experienced for the last ⁷ ⁶ years since a work incident in which chemical spilled on her face.⁷⁷ She ⁷ ⁸ said that since having a chemical spilled on her face she experienced ⁹ pain traveling into her neck and shoulders.⁷⁸ She said that she had ¹⁰ used migraine medication prescribed to her and it was helpful.⁷⁹ ¹¹ On September 19, 2022, Plaintiff presented to Brenna Boyd for ¹² follow-up regarding migraine headaches that were diagnosed as ¹³ ¹⁴ ¹⁵ ¹⁶ ¹⁷ ⁷⁵ AR 545.

¹⁸ ⁷⁶ Id. ¹⁹ ²⁰ ⁷⁷ AR 536. ²¹ ⁷⁸ Id. ²² ⁷⁹ Id. ²³ ¹ tension headaches and which Plaintiff described as restricting ² movement in her neck and shoulders.⁸⁰ ³ On November 8, 2022, Plaintiff presented to consultative ⁴ examiner Marquetta Washington, ARNP, at the Commissioner's ⁵ request.⁸¹ She reported that she experienced migraines since she ⁶ injured her knee in 2016 and that the migraines lasted 2-3 hours with ⁷ ⁸ nausea but were controlled with Tylenol.⁸² ⁹ On December 13, 2022, Plaintiff presented to Danielle Smith, ¹⁰ ARNP, with "numerous health complaints" and reports that she ¹¹ slipped on ice ⁴-⁵ days prior and was having headaches and ear pain.⁸³ ¹² ARNP Smith diagnosed a chronic intractable headache and

ordered a 13 migraine cocktail consisting of dexamethasone, metoclopramide, and 14 15 diphenhydramine.⁸⁴ 16 17 80 AR 617.

18 81 AR 595. 19 20 82 Id. 21 83 Id. 22 84 AR 668. 23 1 On March 20, 2023, Plaintiff presented to ARNP Paula Dillard, to 2 establish care.⁸⁵ ARNP Dillard noted that Plaintiff was diagnosed with 3 depression, anxiety, fibromyalgia, prediabetes, neck pain, cervical 4 radiculopathy, hypothyroidism, and hyperlipidemia.⁸⁶ She also noted 5 that Plaintiff had been discharged from her pain management program 6 because she was on a medication contract and had presented to the ER 7 8 in February for pain medication for a migraine.⁸⁷ On May 1, 2023, 9 Plaintiff returned to ARNP Dillard, complaining of uncontrolled left- 10 sided migraines, that began a few years prior after having carpal 11 tunnel surgery.⁸⁸ 12 4.

The ALJ's Findings 13 14 The ALJ found Plaintiff's statements concerning the intensity, 15 persistence, and limiting effects of the symptoms of her medically 16 determinable physical impairments not entirely consistent with the 17 18 85 AR 841. 19 20 86 AR 841-843. 21 87 AR 843. 22 88 AR 866. 23 1 medical evidence and other evidence in the record.⁸⁹ The ALJ 2 addressed Plaintiff's complaints of physical pain together, rather than 3 separately.

He reasoned: 4 She at times presented to the emergency room for 5 headaches and/or musculoskeletal pain, but physical exams and workup were generally normal (Exs. B7F/23-24; 6 B10F/7-9). September 2022 follow up reports with her primary care provider mention neck tenderness and 7 tightness, but otherwise well appearing, alert, and oriented 8 presentation, no acute distress, 5/5 strength, intact sensation, and normal coordination (Ex.

B7F/17). February 9 2023 emergency room records show that despite complaints of headaches, dizziness, and right neck and arm pain, her 10 physical examination showed no significant external 11 findings, and instead normal spine and right upper extremity range of motion, no bony tenderness, intact 12 sensation and strength, no motor or sensory deficit on neurological exam, normal mood and affect, and clear and 13 linear thought process (Ex.

B10F/8). Electrocardiogram study also was benign, radiographs were negative for 14 fracture or dislocation, and she was discharged in stable 15 condition (Ex. B10F/8-9).⁹⁰ 16 He continued: 17 An earlier November 2022 consultative medical 18 examination report similarly noted complaints of migraines and back, multi joint, and chest pain (Ex. B6F).

However, 19 she demonstrated an ability to walk steadily with good 20 21 89 AR 30-31. 22 90 AR 30. 23 1 posture from waiting room to the examining room without difficulty; rise and sit from a chair without assistance; get 2 on and off the exam table, tie, and don and doff her shoes and socks without help; make a full fist with each hand and 3 touch her thumb to the tip of each finger; pick up a coin, 4 button/unbutton, and zip/unzip with little effort; stand on either foot and bend and partially squat (Ex.

B6F/3, 5). She 5 had limited shoulder range of motion and declined heel and toe walk due to reported pain, but otherwise demonstrated 6 even and unlabored respiration; regular cardiovascular rate and rhythm; normal other range of motion; no effusion, 7 periarticular swelling, tenderness, heat, redness and 8 thickening of the joints; stable station; negative Romberg; nonantalgic gait; normal tandem walk; 4/5 symmetric grip 9 strength; 5/5 upper and lower extremity strength; normal muscle bulk and tone; no atrophy, spasm, or joint deformity; 10 negative straight leg raise; grossly intact sensation; 2+ deep 11 tendon reflexes; and no muscle tenderness or trigger points (Ex.

B6F).91 12 The ALJ noted that Plaintiff's headaches reportedly improved 13 with medication, stating: 14 15 Treatment for her musculoskeletal pain continued with Lyrica, and Cymbalta, and referrals to physical therapy, 16 pain clinic, and rheumatology, as the claimant had never had a rheumatology consultation (Ex. B22F/17, 33, 40, 80). 17 In March 2023, she was started on low dose amitriptyline 18 for headaches/migraines, reportedly never having had workup, and she was referred to neurology (Ex.

B22F/17, 19 19). Her physical examination report noted orientation to 4 spheres, appropriate mood and affect, and normal overview 20 of her extremities, memory, sensation, deep tendon reflexes, 21 22 91 Id. 23 1 insight, and judgment (Ex. B22F/24).

On May 2023 follow up, the claimant reported improvement in headaches and 2 sleep with medication, her ROS was negative except for anxiety and depression, and her physical examination was 3 unremarkable (Ex. B22F/34-38).

The record since does not 4 show any significant headache complaints (Exs. B22F/37, 48, 76, 84, 97, 105), indicating the medication was effective 5 in controlling her headaches. A May 2023 brain MRI noted right mastoiditis, but no intracranial pathology (Ex. 6 B23F/1).

The record does not show any further specialized workup or treatment for headaches. The effects of 7 medication and treatment are considered in determining 8 the weight that can be given to the claimant's symptom reports, as well as in making the residual functional 9 capacity finding.92 10 Earlier in the decision, the ALJ indicated a positive Waddell's 11 sign on examination, which is an indicator of symptom magnification.93 12 He noted further that in September 2023, Plaintiff was noted to have 13 engaged in symptom magnification.94 14 15 5.

Analysis 16 Plaintiff alleges that the ALJ erred by referencing physical 17 examinations and workups. She argues that physical findings are not 18 19 20 92 AR 31. 21 93 AR 27, citing to AR 784. 22 94 AR 27, citing to AR 877. 23 1 an indicator of migraines and had no relevance.95 Plaintiff argues that 2 the record supports that Plaintiff suffered from migraines when trying 3 to study for her citizenship test, but the ALJ did not include any 4 limitations regarding time off-task or absenteeism in the RFC.

The 5 Commissioner argues that the ALJ properly considered that Plaintiff 6 never had a workup for headaches until March 2023 and that once 7 8 prescribed medication at that time she did not have significant 9 complaints of headaches anymore.⁹⁶ The Court agrees with the 10 Commissioner. 11 Initially, the Court finds that the ALJ's consideration of the 12 physical examinations and workups was appropriate for two reasons.

13 First, as noted above, the ALJ provided his reasoning regarding 14 15 consideration of Plaintiff's physical impairments, including headaches 16 and musculoskeletal pain, in the same paragraph. Because the ALJ 17 was addressing Plaintiff's back pain, joint pain and chest pain, his 18 consideration of such findings as nonantalgic gait, lack of swelling and 19 20 21 95 ECF No. 9.

22 96 ECF No. 11. 23 1 tenderness, normal strength and muscle tone, normal reflexes, and 2 lack of spasm and atrophy was relevant and appropriate. Additionally, 3 the record indicates that Plaintiff's headaches were diagnosed as 4 "tension headaches" and the ALJ properly considered indicators of 5 tension. 6 Moreover, the Court concludes that the ALJ's reasoning 7 8 regarding Plaintiff's response to medication was appropriate and 9 provided substantial support for his findings.

The ALJ considered that 10 in March 2023 Plaintiff received both a workup by neurologists 11 regarding her headaches and was prescribed medication to treat the 12 headaches. He also considered that the medical records establish that 13 the medication successfully treated Plaintiff's headaches because going 14 15 forward Plaintiff denied any significant headaches.⁹⁷ 16 A claimant's improvement with treatment is "an important 17 indicator of the intensity and persistence of... symptoms."⁹⁸ Symptom 18 19 20 97 AR 31.

21 98 20 C.F.R. §§ 416.929(c)(3), 404.1529(c)(3). See *Warre v. Comm'r of 22 Soc. Sec. Admin.*, 439 F.3d 1001, 1006 (9th Cir. 2006) ("Impairments 23 1 improvement, however, must be weighed within the context of an 2 "overall diagnostic picture," particularly for mental-disorder symptoms 3 which often wax and wane.⁹⁹ If treatment relieves symptoms to an 4 extent that allows the claimant to return to a level of function she had 5 before she developed [symptoms], such treatment can undermine a 6 claim of disability.¹⁰⁰ 7 8 The ALJ reasoned: 9 While the record does reflect that Plaintiff complained of increased migraine headaches in October 2021, when 10 studying for her citizenship examination she stated in 11 January 2022 that medication provided to her was helpful.¹⁰¹ Moreover, after a consultation with neurologists in March 12 2023, Plaintiff was prescribed targeted medication and 13 14 15 that can be controlled effectively with medication are not disabling for 16 the purpose of determining eligibility for SSI benefits.").

17 99 *Holohan v. Massanari*, 246 F.3d 1195, 1205 (9th Cir. 2001); see also 18 *Lester v. Chater*, 81 F.3d 821, 833 (9th Cir. 1995) ("Occasional 19 20 symptom-free periods... are not inconsistent with disability."). 21 100 See 20 C.F.R. §§ 404.1520a(c)(1), 416.920a(c)(1). 22 101 AR 536, 545. 23 1 thereafter did not report further significant migraine symptoms.¹⁰² 2 The Court concludes that

based upon the record before it, the ALJ 3 4 did not err in his evaluation of Plaintiff's subjective complaints.

The 5 Court finds that the ALJ accurately recited the testimony and record 6 and further concludes that the ALJ adequately explained his 7 reasoning. The Court declines to remand as to this issue. 8 6. Summary 9 It is the ALJ's responsibility to review and evaluate the 10 11 conflicting evidence and Plaintiff's subjective complaints.¹⁰³ The ALJ 12 meaningfully explained why he evaluated Plaintiff's subjective 13 complaints as he did, and these reasons are supported by substantial 14 evidence.

15 IV. Conclusion 16 Accordingly, IT IS HEREBY ORDERED: 17 18 1. The ALJ's nondisability decision is AFFIRMED. 19 20 21 102 AR 31. 22 103 Tackett v. Apfel, 180 F.3d 1094, 1102 (9th Cir. 1999). 23 1 2. The Clerk's Office shall TERM the parties' briefs, ECF 2 Nos. 9 and 11, enter JUDGMENT in favor of Defendant, ° and CLOSE the case. IT IS SO ORDERED.

The Clerk's Office is directed to file this 6 order and provide copies to all counsel. 7 DATED this 17'* day of December 2025. Led I Show —SDWARD F. SHEA 10 Senior United States District Judge 11 12 13 14 15 16 17 18 19 20 21 22 23 DISPOSITIVE ORDER - 36