

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA**

Hernandez v. Commissioner of the Social Security Administration

No. 23cv2087-GPC(MMP) (S.D. Cal. May 2, 2025) · No. 23cv2087-GPC(MMP) · Decided May 2, 2025

OPINION

Hernandez v. Commissioner of the Social Security Administration

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 MARIA H., Case No.: 23cv2087-GPC(MMP) 12 Plaintiff,

ORDER DENYING PLAINTIFF'S

13 v. MOTION TO ALTER OR AMEND

ORDER

14 COMMISSIONER OF THE SOCIAL

SECURITY ADMINISTRATION,

15 [Dkt. No. 24.] Defendant. 16 17 Before the Court is Plaintiff Maria H.'s ("Plaintiff") motion to
alter or amend order 18 and judgment in this case pursuant to Federal Rule of Civil Procedure
59(e). (Dkt. No. 19 24.) Defendant Commissioner of Social Security Administration filed an
opposition. 20 (Dkt. No. 30.) No reply was filed. Based on the reasoning below, the Court
DENIES 21 Plaintiff's motion to alter or amend the Court's order filed on March 20, 2025. 22
Background 23 On December 4, 2023, Plaintiff Maria H. ("Plaintiff") filed an amended complaint
24 seeking review of the Commissioner of Social Security's final decision denying her 25
application for disability insurance benefits under Title II and supplemental security 26 income
under Title XVI of the Social Security Act. (Dkt. No. 5.) After full briefing by 27 the parties, on
January 24, 2025, the Magistrate Judge issued a report and 28 1 recommendation that the Court
reverse the Commissioner's decision and remand the case 2 for further proceedings. (Dkt. No. 19.)
No objections were filed. On March 20, 2025, 3 the Court declined to adopt the report and
recommendation and affirmed the 4 Commissioner's decision. (Dkt. No. 20.) The Court found that
the ALJ did not err in 5 failing to account for Plaintiff's mild mental limitations, that are non-
severe, in the 6 residual functional capacity analysis, and accordingly, the ALJ did not err when he
did 7 not include those mild mental limitations in the hypothetical questions posed to the 8
vocational expert. (Id. at 13-14.) 9 Discussion 10 A. Legal Standard Federal Rule of Civil
Procedure 59(e) 11 Under Federal Rule of Civil Procedure ("Rule") 59(e), reconsideration is 12
"appropriate if the district court (1) is presented with newly discovered evidence; (2) 13

committed clear error or the initial decision was manifestly unjust, or (3) if there is an 14 intervening change in controlling law.” Sch. Dist. No. 1J, Multnomah County, Or. v. 15 ACandS, Inc., 5 F.3d 1255, 1263 (9th Cir. 1993); see also Smith v. Clark Cnty. Sch. Dist., 16 727 F.3d 950, 955 (9th Cir. 2013). A court commits clear error when “the reviewing 17 court on the entire record is left with the definite and firm conviction that a mistake has 18 been committed.” Smith, 727 F.3d at 955 (quoting United States v. U.S. Gypsum Co., 19 333 U.S. 364, 395 (1948)). “[A] Rule 59(e) motion is an ‘extraordinary remedy, to be 20 used sparingly in the interests of finality and conservation of judicial resources.’” Wood 21 v. Ryan, 759 F.3d 1117, 1121 (9th Cir. 2014) (per curiam) (quoting Kona Enters., Inc. v. 22 Est. of Bishop, 229 F.3d 877, 890 (9th Cir. 2000)). A motion for reconsideration cannot 23 “be used to raise arguments or present evidence for the first time when they could 24 reasonably have been raised earlier in the litigation.” Kona Enters., Inc., 229 F.3d at 890. 25 “A district court has considerable discretion” when considering a Rule 59(e) motion. 26 Turner v. Burlington N. Santa Fe R.R. Co., 338 F.3d 1058, 1063 (9th Cir. 2003). 27 / / / 28 / / / 1 B. Analysis 2 Plaintiff argues the Court committed clear error by misapplying the holding in 3 Woods v. Kijakazi, 32 F.4th 785 (9th Cir. 2022). (Dkt. No. 24-1 at 3-4.) According to 4 Plaintiff, the Court improperly held that an ALJ does not need to incorporate mild mental 5 limitations into the RFC as long as the ALJ uses boilerplate language stating that the 6 “following residual functional capacity assessment reflects the degree of limitation the 7 undersigned has found in the ‘paragraph B’ mental function analysis.” (Dkt. No. 24-1 at 8 3.) Instead, Plaintiff argues, in Woods, the Ninth Circuit conducted a two-pronged 9 assessment. First, the court alluded to boilerplate language that the mental limitations 10 found in the paragraph B analysis have been accounted for in the RFC. Second, the court 11 noted that the ALJ also characterized the medical evidence as “not reflect[ing] any 12 significant complaint of mental health symptoms.” (Id. at 4.) Therefore, according to 13 Defendant, the ALJ stated that the mild limitations were accounted for and also explained 14 why no limitations for the mild mental limitations were accounted for.” (Id.) Defendant 15 contends that the Court properly applied Woods. (Dkt. No. 30 at 2-4.) 16 Contrary to Plaintiff’s argument, the Court did not conclude that an ALJ does not 17 need to incorporate mild mental limitations into the RFC as long as the ALJ uses 18 boilerplate language. (See Dkt. No. 20 at 13.) Instead, the Court recognized district 19 courts that have made that conclusion. (Id. at 8-9.) 20 Further, Plaintiff appears to overlook the Court’s ruling that not only did the ALJ 21 in this case use boilerplate language that the RFC reflects the mental degree of limitation 22 it assessed at step two, but also considered and provided reasoning to support his 23 conclusion that Plaintiff’s mental impairments are nonsevere and do not cause more than 24 a minimal limitation in Plaintiff’s ability to do basic work activities. (Dkt. No. 12, 25 Administrative Record (“AR”) 177-78.) The ALJ in this case did what the ALJ in Woods 26 did and provided reasoning to support why he did not include mild mental impairments 27 into the RFC analysis. Thus, the Court DENIES Plaintiffs’ motion for reconsideration on 28 this ground. 1 Additionally, Plaintiff argues that the Court erred because it

failed to recognize an 2 ||internal inconsistency where, on the one hand, the ALJ listed depression as a severe 3 ||impairment, but after review of the records, the ALJ then found that she did not have a 4 ||severe mental impairment. (AR 176.) This issue is being raised for the first time as 5 || Plaintiff did not raise this issue in her briefing on the merits. A motion for 6 || reconsideration may not raise new arguments or claims not raised in the previous motion. 7 || See 389 Orange Street Partners v. Arnold, 179 F.3d 656, 665 (9th Cir. 1999) (“Raising 8 argument . . . in his motion for reconsideration was simply too little, too late.”); Kona 9 || Enters., Inc. v. Estate of Bishop, 229 F.3d 877, 890 (9th Cir. 2000) (“A Rule 59(e) motion 10 || may not be used to raise arguments or present evidence for the first time when they could 11 ||reasonably have been raised earlier in the litigation”) (emphasis in original) (citing 389 12 || Orange Street Partners, 179 F.3d at 665). The Court declines to address Plaintiffs 13 argument which was raised for the first time on a motion for reconsideration when she 14 || could have raised it in the prior merits briefing. 15 Accordingly, the Court DENIES Plaintiff's motion for reconsideration. 16 Conclusion 17 Based on the above, the Court DENIES Plaintiff's motion to alter or amend the 18 || Court's order and judgment. The hearing set on May 23, 2025 shall be vacated. 19 IT IS SO ORDERED. 20 Dated: May 2, 2025 21 Hon. the Cae 2 United States District Judge 23 24 25 26 27 28