

**UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF  
WASHINGTON**

**Sally J. W. v. Commissioner of Social Security**

No. 3:25-cv-05512-GJL (W.D. Wash. Jan. 12, 2026) · No. 3:25-cv-05512-GJL · Decided January 12, 2026

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**OPINION**

Waterbury

PER CURIAM.

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UNITED STATES DISTRICT COURT

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WESTERN DISTRICT OF WASHINGTON

AT TACOMA

9

10 SALLY J. W.,

CASE NO. 3:25-cv-05512-GJL 11 Plaintiff, v.

SOCIAL SECURITY DISABILITY

12 APPEAL ORDER

COMMISSIONER OF SOCIAL

13 SECURITY,

14 Defendant. 15

This Court has jurisdiction pursuant to 28 U.S.C. § 636(c), Fed. R. Civ. P. 73 and Local 16 Magistrate Judge Rule 13. See also Consent to Proceed Before a United States Magistrate Judge, 17 Dkt. 3. This matter has been fully briefed. See Dkts. 11, 17, 18. 18 After considering the administrative record (AR) and all memoranda, the Court concludes 19 the Administrative Law Judge (ALJ) did not err in finding Plaintiff not disabled. The Court 20 accordingly AFFIRMS the Commissioner's final decision in this matter. 21

**I. PROCEDURAL HISTORY**

22 Plaintiff's application for Disability Insurance Benefits (DIB) was denied initially and 23 following reconsideration. AR 213–36. Plaintiff's requested hearing was held before ALJ 24 1 Lawrence Lee (AR 182–212), who then issued a written decision concluding Plaintiff was not 2 disabled (AR 127–48). That decision was reversed by this Court in August 2023 pursuant to a 3 stipulation by the parties. AR 2909–15. On remand, ALJ Mark Triplett (the ALJ) held a hearing 4 on January 22, 2025. AR 2842–74. He issued an unfavorable decision on February 27, 2025. AR 5 2814–41. Plaintiff failed to file exceptions with the Appeals Council, making the ALJ's decision 6 Commissioner's final decision subject to judicial review. See 20 C.F.R. § 404.984(a). On June 7

11, 2025, Plaintiff filed a Complaint in this Court seeking judicial review of the ALJ's decision.  
8 Dkt. 1. Defendant filed the sealed AR in this matter on August 11, 2025. Dkts. 5–7.

## 9 II. BACKGROUND

10 Plaintiff was born in 1967 and was 51 years old on June 1, 2018, the alleged onset date. 11 See  
AR 2818, 2831. She has at least a high school education. AR 2831. Her date last insured, for 12  
the purposes of her eligibility for DIB, is December 31, 2018. AR 2818. The ALJ considered 13  
whether Plaintiff was disabled between June 1 and August 31, 2018 (the relevant period). See *id.*  
14 According to the ALJ, Plaintiff suffered from, at a minimum, the severe impairments of  
obesity, 15 breast cancer, adrenal gland disorder, degenerative disc disease, fibromyalgia,  
osteoarthritis, and 16 degenerative joint disease (bilateral knees). AR 2820. However, the ALJ  
found Plaintiff was not 17 disabled because she had the following Residual Functional Capacity  
(RFC): 18 to perform light work as defined in 20 CFR 404.1567(b) except with the following  
limitations: The individual can perform the full range of light work, except the 19 individual can  
occasionally climb ramps and stairs, but never climb ladders, ropes, or scaffolds. The individual  
can frequently balance and stoop, but occasionally 20 kneel, crouch, and crawl. The individual can  
frequently reach with the right, dominant, upper extremity. The individual can tolerate occasional  
exposure to 21 extreme heat and cold, and to workplace hazards such as unprotected heights and  
exposed, moving machinery. 22 AR 2823. 23 24

## 1 III. DISCUSSION

2 Pursuant to 42 U.S.C. § 405(g), this Court may set aside the Commissioner's denial of 3 benefits  
if, and only if, the ALJ's findings are based on legal error or not supported by 4 substantial  
evidence in the record as a whole. *Bayliss v. Barnhart*, 427 F.3d 1211, 1214 n.1 (9th

5 Cir. 2005) (citing *Tidwell v. Apfel*, 161 F.3d 599, 601 (9th Cir. 1999)).

6 In her opening brief, Plaintiff argues the ALJ erred in considering two medical opinions 7 and  
her subjective symptom testimony. Dkt. 11. 8 A. Medical Opinion Evidence 9 Plaintiff challenges  
the assessment of some portions of the medical opinions of two state 10 agency consultants and  
the medical opinion of Seymour Levine MD. Dkt. 11 at 3–12. 11 Under the regulations in effect  
prior to March 2017, heightened articulation requirements 12 attached to certain medical opinions.  
See *Lester v. Chater*, 81 F.3d 821, 830-31 (9th Cir. 1995). 13 But for applications, like Plaintiff's,  
filed after March 2017, ALJs need not “defer or give any 14 specific evidentiary weight, including  
controlling weight, to” particular medical opinions, 15 including those of treating or examining  
sources. See 20 C.F.R. §§ 404.1520c(a), 416.920c(a). 16 Rather, ALJs must consider every  
medical opinion in the record and evaluate each opinion's 17 persuasiveness, considering each  
opinion's “supportability” and “consistency,” and, under some 18 circumstances, other factors.  
*Woods v. Kijakazi*, 32 F.4th 785, 791 (9th Cir. 2022); 20 C.F.R. §§ 19 404.1520c(b)–(c),  
416.920c(b)–(c). Supportability concerns how a medical source supports a 20 medical opinion  
with relevant evidence, while consistency concerns how a medical opinion is 21 consistent with  
other evidence from medical and nonmedical sources. 20 C.F.R. §§ 22 404.1520c(c)(1), (c)(2);

416.920c(c)(1), (c)(2). 23 24 1 1. State Agency Consultants 2 State agency consultants Ruth Childs, MD, and Guillermo Rubio, MD, evaluated 3 Plaintiff's claim and rendered opinions based on their reviews of the record. See AR 217–23, 4 229–35. Both sources opined Plaintiff would be limited to occasional reaching on the right due to 5 Plaintiff's breast cancer. AR 221, 233–34. Plaintiff was diagnosed with breast cancer in June 6 2018 and received surgery in August 2018. See AR 2826. Plaintiff challenges the ALJ's rejection 7 of the occasional-reaching limitation. Dkt. 11 at 3. The ALJ rejected this limitation for the 8 following reasons: 9 The history of right breast cancer does not sufficiently support limiting reaching to an occasional level, and this degree of limitation seems inconsistent with the lack 10 of reports by the claimant to providers of having difficulty with reaching or having right arm pain from her surgery. 11 AR 2829. 12 The ALJ's rationale was an adequate basis to reject the opined occasional-reaching 13 limitation. As the ALJ noted in discussing the medical evidence, during the relevant period, 14 Plaintiff did not report exacerbations in musculoskeletal symptoms, exhibit weakness in her 15 extremities, or exhibit deficits in her range of motion. AR 2826. From September 2018 to 16 December 2018, notes indicated she could move all her extremities (AR 829, 864) or indicated 17 she did not report musculoskeletal symptoms (AR 857, 868). One note indicated there was no 18 evidence of RUE lymphedema (AR 864), a common cause of post-treatment arm pain. 19 However, six days after her surgery (on August 23, 2018), a treatment note from a 20 follow-up appointment indicated Plaintiff had no pain (rating her pain as 0 out of 10) but had 21 "intermittent shooting pain in [her] armpit area with certain movements." AR 876. But this 22 symptom was not noted at subsequent appointments, and, at the appointment in question, it was 23 not present. And the August 23rd note is ambiguous as to whether reaching movements triggered 24 1 this pain and the extent of the pain they triggered, so they do not necessarily compel further 2 limitations. Thus, the note does not cast doubt upon the ALJ's conclusion. 3 Plaintiff points to some other evidence purporting to establish that further reaching 4 limitations were warranted (Dkt. 11 at 7), but such evidence similarly does little to undermine 5 the ALJ's conclusion. She points to Dr. Childs' clinical findings, but those findings contained no 6 mention of any issues with Plaintiff's upper extremities. See AR 227. She points to some 7 evidence concerning tremors in her hands and fingers (AR 803, 811), but such evidence goes to 8 her fine manipulative abilities rather than her ability to use her arm to reach. Plaintiff notes arm 9 numbness and lymphedema were suggested as potential surgical risks (AR 885), but this does 10 not mean she experienced those conditions. In fact, as discussed, post-surgical notes in the period 11 after her surgery indicated no such difficulties were experienced. Plaintiff points to her mother's 12 statement which checked a box indicating she had reaching difficulties (AR 461), but her mother 13 did not specify the extent of those difficulties. 14 Plaintiff argues the ALJ erred in relying upon an absence of evidence. Dkt. 11 at 8. She 15 cites to *Diedrich v. Berryhill*, 874 F.3d 634, 641 (9th Cir. 2017), and argues this is not a situation 16 where one would expect a provider to comment upon a limitation not under review. But *Diedrich* 17 involved a situation where a medical opinion rendered by an orthopedist did not mention specific 18 mental

health problems. *Id.* Here, as discussed, providers at Plaintiff's post-surgical 19 appointments routinely noted whether she reported musculoskeletal symptoms and tested her 20 range of motion. See AR 829, 857, 864, 868. One would expect, if Plaintiff had related 21 difficulties, they would be noted. Indeed, the August 23rd note belies Plaintiff's point—it shows 22 her post-surgery appointments were likely to note deficiencies in her extremities. 23 24 1 In sum, the ALJ properly addressed and discounted the state agency consultants' 2 occasional-reaching limitation. 3 2. Dr. Levine 4 In December 2017, Dr. Levine conducted a medical examination of Plaintiff and 5 completed a medical opinion related to her workers compensation claim. AR 1959–80. He 6 opined Plaintiff was limited in her abilities to stand, sit, bend, twist, bend, and focus. See AR 7 1978. The ALJ found the opinion unpersuasive. AR 2831. 8 With respect to supportability, the ALJ noted Dr. Levine appeared to rely upon a 9 “reported deterioration in 2013” but this was not documented in the record. AR 2831. Such a 10 misperception of the medical evidence is a valid basis on which to reject the opinion. See 11 *Chaudhry v. Astrue*, 688 F.3d 661, 671 (9th Cir. 2012) (affirming rejection of medical opinion 12 based on misimpression that claimant required cane and wheelchair when none had been 13 prescribed). The ALJ also found that Dr. Levine's opinion was not supported by his 14 examination—he did not observe Plaintiff's walking abilities and found she had only mild range- 15 of-motion decreases, but opined she was limited in related areas. AR 2831. This too was a proper 16 basis on which to find the opinion unsupported. See *Stiffler v. O'Malley*, 102 F.4th 1102, 1107 17 (9th Cir. 2024) (affirming rejection of medical opinion in part because examination revealed only 18 normal results). 19 With respect to consistency, the ALJ found Dr. Levine's opinion inconsistent with the 20 following evidence: 21 the claimant's reports of medication helping to manage fibromyalgia, the lack of emergency treatment or physician intervention for exacerbations in symptoms 22 during the period at issue, and the lack of observations of significant pain behavior or fatigue, limited evaluation of the claimant's musculoskeletal impairments and 23 the limited reports of musculoskeletal pain to providers during the period at issue, the report of medications helping to manage pain, the medical imaging showing no 24 1 more than mild abnormalities in the spine and moderate abnormalities in the knees, the observations of normal gait and range of motion, the lack of observations of 2 motor weakness or other neurological deficits from spinal disorders, the apparent lack of muscle atrophy, the lack of reports of side effects from Tamoxifen, the 3 oncology report of the claimant “doing well” in January 2019, the limited reports to providers of difficulty reaching, the routine treatment for adrenal insufficiency, 4 the report of feeling well with medication in July 2018, the lack of evidence showing that her condition changes after mid-2018, and the apparent lack of 5 complications from adrenal insufficiency before or during the period at issue (see [AR 588–99, 753, 764, 801, 819–24, 826–29, 834–35, 838, 843, 941]). 6 AR 2831. This consistency analysis provided substantial evidence on which to reject Dr. 7 Levine's opinion, as well. For instance, the ALJ could reasonably conclude that Plaintiff's ability 8 to walk, normal range of motion, and mild spinal abnormalities, along with a lack of pain 9 observations and evidence of successful pain-

relieving treatment, were inconsistent with 10 significant limitations in standing, walking, and reaching. 11 Plaintiff has not shown the ALJ erred in rejecting Dr. Levine's opinion. She repeats some 12 of Dr. Levine's description of Plaintiff's own statements, notes that Dr. Levine "recorded a long 13 medication list," and notes some of the abnormal results found on examination. Dkt. 11 at 11–12. 14 At best, this shows there was evidence which might support the opinion. But the ALJ's 15 consistency findings are sufficient to uphold the decision. See *Woods*, 32 F.4th at 792–93 16 (finding proper consideration of one of supportability-and-consistency factors to be adequate 17 basis to affirm). And showing some evidence supports the opinion does not mean the ALJ erred 18 in finding the opinion unsupported. See *Smartt v. Kijakazi*, 53 F.4th 489, 494 (9th Cir. 2022) 19 ("Where the evidence is susceptible to more than one rational interpretation, the ALJ's decision 20 must be affirmed.") (quoting *Vasquez v. Astrue*, 572 F.3d 586, 591 (9th Cir. 2009)). 21 Moreover, Plaintiff's medications were not cited as a basis for the opinion, and that she 22 took medications does not mean they were ineffective or suggest she had a particular level of 23 inhibition. The examination results confirm that Dr. Levine did not test Plaintiff's walking and 24 1 that he only found mild range of motion deficits. See AR 1967–71. And the ALJ could 2 reasonably find the opinion unsupported notwithstanding Plaintiff's own statements about her 3 fatigue (AR 1961), as there was no further objective evidence confirming the symptom. 4 In sum, Plaintiff has not shown the ALJ erred in considering Dr. Levine's medical 5 opinion. 6 B. Plaintiff's Subjective Symptom Testimony 7 Plaintiff challenges the ALJ's assessment of her testimony about her reaching ability.

8 Dkt. 11 at 12–14. Relevant to reaching, she testified she has decreased strength in her right arm 9 and that she uses her left arm for some reaching-related purposes she would have used her right 10 arm for before her onset. AR 202–03. 11 To the extent this testimony was inconsistent with the RFC, the ALJ provided specific, 12 clear, and convincing reasons for discounting Plaintiff's testimony. *Garrison v. Colvin*, 759 F.3d 13 995, 1014–15 (citing *Smolen v. Chater*, 80 F.3d 1273, 1281 (9th Cir. 1996)). The ALJ reasonably 14 found Plaintiff's testimony about her reaching abilities was inconsistent with the medical 15 evidence for the same reasons he identified in rejecting the state agency consultants' opinions. 16 Namely, there was little evidence of upper extremity difficulties in the record, and many 17 notations during the relevant period of normal functioning in such areas. See AR 2826. As 18 discussed, this finding was supported by substantial evidence. "Contradiction with the medical 19 record is a sufficient basis for rejecting the claimant's subjective testimony." *Carmickle v. 20 Comm'r, Soc. Sec. Admin.*, 533 F.3d 1155, 1161 (9th Cir. 2008) (citing *Johnson v. Shalala*, 60 21 F.3d 1428, 1434 (9th Cir.1995)). 22 Plaintiff challenges the ALJ's assessment of her daily activities. Dkt. 11 at 13. But any 23 error therein is harmless, as the ALJ adequately considered the objective medical evidence in 24 1 discounting her testimony, and this was a sufficient basis for affirming the ALJ's determination. 2 See *Molina v. Astrue*, 674 F.3d 1104, 1115 (9th Cir. 2012) (error harmless if "there remains 3 substantial evidence supporting the ALJ's decision and the error does not negate the validity of 4 the ALJ's

ultimate conclusion”). 5 Plaintiff also recounts her medication regimen and contends it shows her physicians 6 believed she had pain symptoms. Dkt. 11 at 14. But this does not mean the ALJ was required to 7 credit her testimony. The existence of an alternate interpretation does not mean the ALJ’s 8 rational for finding Plaintiff incredible was erroneous—the Court defers to the ALJ’s reasonable 9 resolutions of factual issues. See *Smartt*, 53 F.4th at 494. And a substantial pain regimen can just 10 as easily show Plaintiff’s condition was well-controlled, as the ALJ found was the case here (see 11 AR 2825–26). Plaintiff has not challenged that finding. See Dkt. 11. Thus, the ALJ gave 12 adequate reasons for rejecting Plaintiff’s testimony about her reaching abilities.

#### 13 IV. CONCLUSION

14 Based on these reasons and the relevant record, the Court ORDERS that this matter be 15 AFFIRMED pursuant to sentence four of 42 U.S.C. § 405(g). 16 17 Dated this 12th day of January, 2026. 18 A 19 20 Grady J. Leupold United States Magistrate Judge 21 22 23 24