UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

K.S. v. Frank Bisignano

K.S. v. Bisignano · No. 24-cv-07195-SVK · Decided July 14, 2025

OPINION

Sanders v. Commissioner of Social Security
PER CURIAM.
1 2 3
4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA
6 7 K.S., Case No. 24-cv-07195-SVK 8 Plaintiff,
ORDER AFFIRMING
9 v.
COMISSIONER'S DECISION
10 FRANK BISIGNANO,1 Re: Dkt. No. 11 Commissioner of Social Security 11 Defendant. 12 Plaintiff appeals the decision of Defendant Commissioner of Social Security, which denied 13 her application for disability insurance benefits. For the reasons below, the Court AFFIRMS the 14 decision of the Commissioner. 15
I. BACKGROUND
16 On April 26, 2021, Karen Yvette Sanders ("Plaintiff") filed a claim for Supplemental 17 Social Security income for disability benefits. See Dkt. 8-6 (Administrative Record ("AR")) 208- 18
11. On August 20, 2021, Plaintiff's initial claim was denied. AR 82. Plaintiff's claim was again
19 denied on reconsideration on May 12, 2022. AR 104. On March 6, 2023, an Administrative Law 20 Judge ("ALJ") held a telephonic hearing. AR 43-65. On April 3, 2023, the ALJ found Plaintiff 21 was not disabled and issued an unfavorable decision. AR 22-42. (the "ALJ Decision"). 22 As relevant here, in applying the sequential evaluation process for determining disability, 23 at step two, the ALJ found that Plaintiff had the following severe impairments: lumbar 24 25 1 The Court takes notice of the fact that, on January 20, 2025, Michelle King became the Acting 26 Commissioner of Social Security, who served until February 16, 2025. This was followed by Leland Dudek, who served until May 7, 2025, when Frank Bisignano was confirmed as the 27 Commissioner of Social Security. See https://www.ssa.gov/history/commissioners.html. 1 degenerative disc disease, cervical degenerative disc disease, left knee mild degenerative joint 2 disease, right ankle mild degenerative joint disease, obesity and depression. AR 28. At step three, 3 the ALJ found that Plaintiff did not have an impairment or combination of impairments that meets 4 or medically equals the severity of one of the listed impairments. AR 28-30. Next, the

ALJ found 5 that Plaintiff has the residual functional capacity ("RFC") to perform light work with certain 6 limitations. AR 30-35. At step five, the ALJ found that when considering Plaintiff's age, 7 education, work experience and RFC, there are jobs in the national economy existing in significant 8 numbers that Plaintiff could work including: café attendant, garment sorter and price marker. AR 9 36-37. The ALJ thus concluded that Plaintiff was not under a disability, as defined by the Social 10 Security Act, from April 26, 2021, through the date of the ALJ decision. AR 37. 11 On January 3, 2024, the Appeals Council denied Plaintiff's request for review of the ALJ 12 Decision. AR 9-14. After the Appeals Council granted Plaintiff's request for an extension to file 13 a civil action, Plaintiff timely filed this action in this District seeking review of the ALJ Decision. 14 AR 1-4; Dkt. 1. The Parties have consented to magistrate judge jurisdiction. Dkts. 6, 7. In 15 accordance with the Federal Rules of Civil Procedure Supplemental Rules for Social Security 16 Actions, the Parties have presented the action for decision on the briefs. Dkt. 11; Dkt. 13; see Fed. 17 R. Civ. P. Supp. SS Rule 5. The Court now decides the action without oral argument.

18 II. ISSUES FOR REVIEW

19 1. Did the ALJ properly address the medical opinion evidence of: 20 a. The psychological consultative examiner, Dr. Alex Crockett, Psy.D.? 21 b. The physical consultative examiner, Dr. Rose Lewis, M.D.? 22 2. Was the ALJ's RFC determination supported by substantial evidence? 23 3. Did the ALJ appropriately determine at step five that plaintiff was able to perform a 24 significant number of jobs in the national economy? 25 //// 26 //// 27 ////

1 III. LEGAL STANDARD

2 Under 42 U.S.C. § 405(g), a district court reviews the Commissioner's decision denying

3 benefits to "determine whether it is free from legal error and supported by substantial evidence in 4 the record as a whole." Precious A. J. v. Kijakazi, No. 21-cv-00242 KS, 2022 WL 22894110, at 5 *2 (C.D. Cal. Aug. 1, 2022) (citing Orn v. Astrue, 495 F.3d 625, 630 (9th Cir. 2007); 42 U.S.C. 6 § 405(g). "Substantial evidence is 'more than a mere scintilla but less than a preponderance; it is 7 such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.'" 8 Gutierrez v. Comm'r of Soc. Sec., 740 F.3d 519, 522-23 (9th Cir. 2014) (internal citations 9 omitted). For the "substantial-evidence standard, a court looks to an existing administrative record 10 and asks whether it contains sufficient evidence to support the agency's factual determinations," 11 and this threshold is "not high." Biestek v. Berryhill, 587 U.S. 97, 102-03 (2019) (cleaned up). 12 The Court "must consider the evidence as a whole, weighing both the evidence that supports and 13 the evidence that detracts from the Commissioner's conclusion." Rounds v. Comm'r of Soc. Sec. 14 Admin., 807 F.3d 996, 1002 (9th Cir. 2015). Where the evidence is susceptible to more than one 15 rational interpretation, the Court must uphold the ALJ's findings if supported by inferences 16 reasonably drawn from the record. Id. 17 Even if an ALJ commits legal error, the Court will uphold the ALJ's decision if the error is 18 harmless. Brown-Hunter v. Colvin, 806 F.3d 487, 492 (9th Cir. 2015). But "[a] reviewing court 19 may not

make independent findings based on the evidence before the ALJ to conclude that the 20 ALJ's error was harmless" and is "constrained to review to the reasons the ALJ asserts." Id.

21 IV. DISCUSSION

22 A. Issue One: The ALJ Properly Addressed the Medical Opinion Evidence 23 Plaintiff argues that the ALJ failed to properly account for the medical opinions of 24 psychological consultative examiner Dr. Alex Crockett, Psy.D. and physical consultative examiner 25 Dr. Rose Lewis, M.D. Dkt. 11 at 17, 23. Current regulations require that "an ALJ cannot reject 26 an examining or treating doctor's opinion as unsupported or inconsistent without providing an 27 explanation supported by substantial evidence." Woods v. Kijakazi, 32 F.4th 785, 792 (9th Cir. 1 explain how he or she considered the supportability and consistency factors in each of these 2 findings." Id. (quoting 20 C.F.R. § 404.1520c (cleaned up)). "Supportability means the extent to 3 which a medical source supports the medical opinion by explaining the relevant ... objective 4 medical evidence." Id. at 792-93 (same). "Consistency means the extent to which a medical 5 opinion is consistent ... with the evidence from other medical sources and nonmedical sources in 6 the claim." Id. (same). An ALJ must explain supportability and consistency and "may, but is not 7 required to, explain how other factors" were considered. C.B. v. O'Malley, No. 22-cv-05579-LJC, 8 2024 WL 1329920, at *7 (N.D. Cal. Mar. 27, 2024) (citing 20 C.F.R. § 404.1520c(b)(2)(c)). 9 1. The ALJ Properly Addressed Dr. Crockett's Opinion 10 Plaintiff contends the ALJ improperly found parts of Dr. Crockett's opinion unpersuasive, 11 by conducting a "cherry picked" analysis. Dkt. 11 at 17-22. The Commissioner argues the ALJ 12 reasonably found Dr. Crockett's opinion of Plaintiff's mental condition unpersuasive-in-part due 13 to Dr. Crockett's exam lacking supportability and consistency with the overall record. Dkt. 13 at 14 5-8. 15 Dr. Crockett opined that Plaintiff has marked limitations in both the "ability to adapt to the 16 usual stresses common to a competitive work environment including completing a normal 17 workday or workweek" and the "ability to complete a normal workday or workweek without 18 interruptions resulting from a psychiatric condition[.]" AR 531. The ALJ found that these 19 limitations, along with moderate limitations in "attention and persistence," were supported by the 20 findings of the observations of the exam and represented a persuasive opinion. AR 35. 21 However, the ALJ found Dr. Crockett's opinion reporting Plaintiff's limitations in 22 social and adaptive functioning was "less persuasive." AR 35. The ALJ reasoned that the reported 23 anxiety symptoms underlying the limitations were not supported by Dr. Crockett's own 24 examination where Plaintiff presented as "[f]riendly and sad overall" but "able to establish 25 rapport." AR 35; AR 531. The ALJ noted that while Plaintiff complained of "anxiety lately," 26 there was no indication of long-term anxiety or an anxiety disorder diagnosis. AR 35. The ALJ found Dr. Crockett's reference to "avoidance, vegetative symptoms," to be speculative due to a 27 1 symptoms present" in the examination. Id. Regarding consistency, the ALJ explained that 2 Plaintiff's record "shows absolutely no mental health treatment" and "Dr. Pierce, who has 3 provided [Plaintiff] the majority of her care, has not regularly treated the [Plaintiff] for any mental 4 impairment." AR 33. 5 Plaintiff further argues the

ALJ's reasoning to discount Dr. Crockett's opinion is "legally 6 insufficient and frustrates meaningful review" and that the ALJ "cherry picked" the record by 7 failing to address portions of Dr. Crockett's exam and the acupuncture clinic records. Dkt. 11 at 8 19, 21-22. To the contrary, the ALJ did adequately address Dr. Crockett's exam. AR 33, 35 9 (acknowledging a "tearful mood" during the examination and explaining that this was "reasonably 10 consistent [with] the reported mood symptoms of depression," but that Plaintiff nonetheless "was 11 friendly with [Dr. Crockett] and was overall able to establish good rapport," thereby undermining 12 claims of "anxiety symptoms due to social interactions."). The ALJ similarly addressed Plaintiff's history of acupuncture treatments in conjunction with other pain treatment methods. AR 31-32. 13 While Plaintiff argues that the chronic pain evidenced by her history may be linked to depression, 14 (Dkt. 11 at 22), depression is precisely the portion of Dr. Crockett's opinion that the ALJ found 15 persuasive. AR 35. The ALJ's discounting of Dr. Crockett's anxiety opinion was well-supported, 16 even in view of Plaintiff's acupuncture treatments, where the ALJ considered Plaintiff's 17 "longitudinal record" and relied on Plaintiff's good rapport during medical appointments to reach 18 the conclusion as to mental limitations. Id.; See, e.g., Lauri F. v. Comm'r, Soc. Sec. Admin., No. 19 20-cv-01929-MC, 2022 WL 2981450, at *4 (D. Or. July 28, 2022) (ALJ did not err when relying 20 in part on plaintiffs' ability to communicate at "appointments with good rapport, to determine that 21 Plaintiff's mental functioning limitations are not as severe as indicated…."). Accordingly, the 22 ALJ adequately addressed the record and relied on substantial evidence in affording less weight to 23 Dr. Crockett's opinion. 24 //// 25 //// 26 //// 27 //// 1 2. The ALJ Properly Addressed Dr. Lewis' opinion 2 Regarding the physical consultative exam of Dr. Lewis, the ALJ did not find the opinion 3 persuasive. AR 34. Plaintiff contends the ALJ erred in his treatment of Dr. Lewis' opinion by 4 "fail[ing] to consider that [Plaintiff's] cane was deemed medically necessary by Plaintiff's 5 physical therapist whose treatment records provide that" a cane was fitted and given to the patient.

6 Dkt. 11 at 23. The Commissioner argues the ALJ sufficiently explained why Dr. Lewis' opinion

7 was unsupported and inconsistent and therefore unpersuasive. Dkt. 13 at 3. 8 Dr. Lewis opined that Plaintiff can stand and walk for less than two hours per day and that 9 Plaintiff can sit less than two hours per day with both limitations due to "lumbar degenerative disc 10 disease … decreased balance, need for a cane, decreased range of motion for the back, positive 11 straight leg raising and antalgic [gait]." AR 607. Dr. Lewis reported that Plaintiff "can lift and 12 carry less than 10 pounds" due to the same limitations. Id. The report concludes that Plaintiff 13 requires a medically necessary cane for use on all distances and terrains. Id. 14 Regarding consistency, the ALJ found that Dr. Lewis' opinion on the medically necessary 15 use of a cane was inconsistent "given that the majority of the time she was observed to have a 16 normal gait and no use of the cane." AR 34. During a physical therapy session in November 17 2021, Plaintiff was provided a cane after demonstrating an antalgic gait. AR 33 (citing AR 545). 18 But the ALJ notes that, in contrast to Dr. Lewis' opinion, multiple appointments before and after 19 the

providing of a cane recorded Plaintiff having a "normal" gait. Compare AR 606 (Dr. Lewis' 20 exam reporting Plaintiff "cannot do tandem or toe-heel walking") with AR 508 (acupuncture 21 treatment progress note "GAIT: Normal") and AR 692 (office visit with another doctor showing 22 normal gait). Such conflicting evidence can support an ALJ's finding discrediting the purported 23 medical necessity of an ambulatory device. Luis G. v. Saul, No. 19-cv-00317-DFM, 2020 WL 24 1433589, at *4 (C.D. Cal. Mar. 24, 2020) ("The fact that a cane was sometimes documented in the 25 record was not enough to establish its medical necessity."). Similarly, the ALJ highlighted that 26 Dr. Lewis' finding of decreased lumbar flexion was inconsistent where plaintiff was "noted to 27 have full range of motion of the musculoskeletal system" from various medical reports. AR 32 1 acupuncture treatment provided substantial support for the ALJ's decision to find Dr. Lewis' 2 medical opinion unpersuasive. Indeed, if "the evidence is susceptible to more than one rational 3 interpretation," this Court "must uphold the ALJ's findings if they are supported by inferences 4 reasonably drawn from the record." Rounds, 807 F.3d at 1002. 5 Regarding supportability, the ALJ determined Dr. Lewis' opinion was not supportable 6 because "the imaging studies show moderate findings at worst with no indication of herniation." 7 AR 34. The Commissioner also points to the ALJ's explanation that there was only "slight[] loss 8 of lower extremity muscle strength" in Dr. Lewis' findings. Dkt. 13 at 4 (citing AR 34, 607) 9 (arguing that Dr. Lewis' concurrent findings were that Plaintiff had "only slightly reduced strength 10 of four out of five in the lower extremities" and "full five out of five upper extremity 11 strength…."). Here again, there is conflicting evidence in the record, more than a scintilla of 12 which supports the ALJ's decision. Thus, "the evidence is susceptible to more than one rational 13 interpretation" and this Court "must uphold the ALJ's findings." Rounds, 807 F.3d at 1002. 14 In view of this record, the ALJ properly assessed the available medical evidence in 15 considering the supportability and consistency of Dr. Lewis' opinion. While there is some 16 evidence supporting opposite conclusions, this Court finds there was substantial evidence from 17 which the ALJ adequately explained his discounting of Dr. Lewis' opinions. Accordingly, the 18 ALJ did not err. 19 B. Issue Two: The ALJ's Determination of Residual Functional Capacity was Supported by Substantial Evidence 20 Plaintiff further argues that, because "the ALJ failed to properly consider the opinion 21 evidence proffered by the consultative examiners," the ALJ failed to "create a narrative bridge 22 between said evidence and the ALJ's crafted RFC," requiring remand. Dkt. 11 at 17, 22. 23 However, because the Court finds that the ALJ did not err in discounting the medical opinion of 24 Dr. Lewis or discounting-in-part the medical opinion of Dr. Crockett, the Court does not find error 25 in the ALJ's determination of Plaintiff's RFC. 26 //// 27 ////] C. Issue Three: The ALJ's Determination that Plaintiff Could Perform a Significant Number of Jobs in the National Economy Was Supported by 2 Substantial Evidence. 3 Finally, Plaintiff contends that "if the ALJ had properly credited the findings of the 4 || consultative examiners then a finding of disability would have been directed based on the 5 || testimony of the vocational expert." Dkt 11. at 24-25. This argument relies on the premise the 6 || ALJ erred in determining the RFC, which in turn relies

on the argument that the ALJ improperly 7 || discounted the consultative examiners' opinions. Because the Court determines the ALJ did not 8 err in addressing the medical opinion evidence and thus did not err in determining the RFC, 9 || Plaintiffs argument fails at this step. The ALJ reasonably determined at step five, based on the 10 || testimony of the vocational expert and "considering the [Plaintiff's] age, education, work 11 experience, and residual functional capacity, the [Plaintiff] is capable of making a successful 12 || adjustment to other work that exists in significant numbers in the national economy" and therefore 13 Plaintiff is not disabled. AR 37.

14 |) Vv. | CONCLUSION

15 For the reasons above, the Commissioner's decision is AFFIRMED. 16 2 17 SO ORDERED. 18 || Dated: July 14, 2025 19 20 Seaton veel

SUSAN VAN KEULEN

2] United States Magistrate Judge 22 23 24 25 26 27 28

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