

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Angela Lee v. Frank Bisignano, Commissioner of Social Security

Lee · No. 1:25-cv-0161-SKO · Decided August 13, 2025

OPINION

(SS) Lee v. Commissioner of Social Security

PER CURIAM.

1 2 3 4 5

6 UNITED STATES DISTRICT COURT

7 EASTERN DISTRICT OF CALIFORNIA

8 9 ANGELA LEE, Case No. 1:25-cv-0161-SKO 10 Plaintiff,

ORDER ON PLAINTIFF’S SOCIAL

11 v.

SECURITY COMPLAINT

12 FRANK BISIGNANO,

Commissioner of Social Security1, 13 (Doc. 1) Defendant. 14

_____/ 15

16 I. INTRODUCTION

17 Plaintiff Angela Lee (“Plaintiff”) seeks judicial review of a final decision of the 18
Commissioner of Social Security (the “Commissioner” or “Defendant”) denying her application
for 19 disability insurance benefits (“DIB”) under the Social Security Act (the “Act”). (Doc. 1.)
The matter 20 is currently before the Court on the parties’ briefs, which were submitted, without
oral argument, to 21 the Honorable Sheila K. Oberto, United States Magistrate Judge.2

22 II. FACTUAL BACKGROUND

23 On May 7, 2021, Plaintiff protectively filed a claim for DIB and SSI payments, 24
(Administrative Record (“AR”) 390–92, 358–59, 364–83), alleging she became disabled on July
10, 25 26 1 On May 6, 2025, Frank Bisignano was appointed the Commissioner of the Social
Security Administration. See 27 <https://www.ssa.gov/news/press/releases/2025/#2025-05-07>. He
is therefore substituted as the defendant in this action. See 42 U.S.C. § 405(g) (referring to the
“Commissioner’s Answer”); 20 C.F.R. § 422.210(d) (“the person holding the 28 Office of the
Commissioner shall, in his official capacity, be the proper defendant”). 1 2020,3 due to the
following medical conditions: borderline diabetic, low eye vision, learning 2 disabilities, anxiety,
panic attacks, and memory problems, (AR 382). 3 Plaintiff was born in August 1963 and was 58
years old on the alleged onset date. (AR 374– 4 75.) She has a GED, (AR 34, 52), but no past
relevant work, (AR 34). 5 A. Relevant Medical Evidence4 6 1. Fresno County Behavioral Health

7 The record includes various “medication progress notes,” as well as a “Psychiatric 8 Evaluation” from Fresno County Behavioral Health between May 2020 and January 2022. (See 9 AR 530–559 (medication progress notes); 560–563 (psychiatric evaluation).) Each note reflects 10 mental, intelligence, insight and judgment, and cognitive status findings. Those findings 11 consistently indicate that Plaintiff was alert and cooperative, with appropriate normal insight, 12 judgment, and cognition. (See AR 530–31, 533, 536–37, 539–40, 542–43, 545–46, 548, 551–52, 13 554, 557–58, 562, 567–68.) 14 2. L. Faurbo, M.D. 15 On November 24, 2021, Dr. Faurbo completed a mental status evaluation. (AR 505–09.) 16 In the record of that evaluation, Dr. Faurbo recorded that Plaintiff showed intact intelligence, 17 adequate concentration and attention, linear and logical thought process, and an ability to perform 18 calculations. (AR 508.) 19 Based on his observations and evaluation, Dr. Faurbo then expressed his medical opinion 20 in the form of a “Functional Assessment/Medical Source Statement,” in which he opined that 21 Plaintiff was “moderately limited” in her “ability to understand, remember and perform simple, 22 written and oral instructions,” “moderately limited” in “maintaining regular attendance,” 23 “perform[ing] work activities on a consistent basis,” “perform[ing] work activities without special 24 or additional supervision,” “accept[ing] instruction from supervisors,” “interact[ing] with 25 coworkers and the public,” and in “deal[ing] with usual stresses encountered in a competitive work 26 environment,” and “markedly limited” in her “ability to understand, remember, and perform 27 3 Plaintiff later amended the onset date to May 7, 2021. (AR 26.) 28 4 Because the parties are familiar with the medical evidence, it is summarized here only to the extent relevant to the 1 complex written and oral instructions” and in her “ability to complete a normal workday or 2 workweek without interruptions.” (AR 509.) 3 3. Dale H. Van Kirk, M.D. 4 On July 10, 2023, Dr. Van Kirk completed an internal medical evaluation, in which he 5 recorded that Plaintiff reported that he “does texting and telephone work about one half hour a day 6 and reads about one hour a day.” (AR 630.) 7 B. Administrative Proceedings 8 The Commissioner denied Plaintiff’s applications for benefits initially on January 3, 2022, 9 and again on reconsideration on March 25, 2022. (AR 22, 159–37, 248–58, 238–39.) 10 Consequently, Plaintiff requested a hearing before an Administrative Law Judge (“ALJ”). (AR 11 268–69.) At the hearing on April 5, 2023, Plaintiff appeared with counsel and testified before an 12 ALJ as to her alleged disabling conditions. (AR 68–86.) Because the ALJ determined that they 13 required Plaintiff to undergo a consultative examination before rendering a decision and due to 14 technical issues during the initial hearing, a supplemental hearing was held on July 21, 2023, during 15 which Plaintiff again appeared with counsel and testified as to her alleged disabling conditions, 16 (AR 42–65), as did a Vocational Expert (“VE”), (AR 60–62). 17 During the hearings, Plaintiff testified that she cooks, (AR 49–50); uses a computer to 18 check recipes and her email, (AR 50); uses public transport, though she “once in a while” will “get 19 on the wrong bus or miss the bus,” (AR 51, 56); and reads, (AR 71). 20 C. The ALJ’s Decision 21 In a decision dated November 1, 2023, the ALJ found that Plaintiff was not disabled, as 22 defined by the Act. (AR 22–35.) The ALJ conducted the five-step

disability analysis set forth in 23 20 C.F.R. § 404.1520. (AR 25–35.) The ALJ decided that Plaintiff met the insured status 24 requirements of the Act through June 30, 2003, and she had not engaged in substantial gainful 25 activity since May 7, 2021, the alleged onset date (step one). (AR 25–26.) At step two, the ALJ 26 found Plaintiff’s following impairments to be severe: major depressive disorder and generalized 27 anxiety disorder. (AR 26–27.) Plaintiff did not have an impairment or combination of impairments 28 1 that met or medically equaled one of the listed impairments in 20 C.F.R. Part 404, Subpart P,

2 Appendix 1 (“the Listings”) (step three). (AR 21–22.)

3 The ALJ assessed Plaintiff’s residual functional capacity (RFC)5 and applied the assessment 4 at steps four and five. See 20 C.F.R. § 404.1520(a)(4) (“Before we go from step three to step four, 5 we assess your residual functional capacity We use this residual functional capacity assessment 6 at both step four and step five when we evaluate your claim at these steps.”). The ALJ determined 7 that Plaintiff had the RFC: 8 to perform a full range of work at all exertional levels but with the following nonexertional limitations: She can understand, remember, and carry out simple 9 instructions; she can use judgement to make simple work related decisions; she can frequently interact with supervisors; she can occasionally interact with co-workers 10 and the public; and she cannot perform work requiring a specific production rate, 11 such as assembly line work or work with hourly quotas. 12 (AR 29.) Although the ALJ recognized that Plaintiff’s impairments “could reasonably be expected 13 to cause the alleged symptoms, the ALJ rejected Plaintiff’s subjective testimony as “not entirely 14 consistent with the medical evidence and other evidence for the reasons explained in this decision.” 15 (Id.) 16 The ALJ determined that Plaintiff had no past work experience (step four). (AR 34.) The 17 ALJ ultimately concluded that Plaintiff was not disabled because Plaintiff could perform a 18 significant number of other jobs in the national economy, specifically kitchen helper, industrial 19 cleaner, and labor stores (step five). (AR 34–35.) 20 Plaintiff sought review of this decision before the Appeals Council, which denied review 21 on September 4, 2024. (AR 5–11.) Therefore, the ALJ’s decision became the final decision of the

22 Commissioner. 20 C.F.R. § 404.981.

23 24 25 5 RFC is an assessment of an individual’s ability to do sustained work-related physical and mental activities in a work setting on a regular and continuing basis of 8 hours a day, for 5 days a week, or an equivalent work schedule. TITLES 26 II & XVI: ASSESSING RESIDUAL FUNCTIONAL CAPACITY IN INITIAL CLAIMS, Social Security Ruling (“SSR”) 96-8P (S.S.A. July 2, 1996). The RFC assessment considers only functional limitations and restrictions that result from an 27 individual’s medically determinable impairment or combination of impairments. Id. “In determining a claimant’s RFC, an ALJ must consider all relevant evidence in the record, including, inter alia, medical records, lay evidence, and 28 ‘the effects of symptoms, including pain, that are reasonably attributed to a medically determinable impairment.’”

1 III. LEGAL STANDARD

2 A. Applicable Law 3 An individual is considered “disabled” for purposes of disability benefits if [they are] unable 4 “to engage in any substantial gainful activity by reason of any medically determinable physical or 5 mental impairment which can be expected to result in death or which has lasted or can be expected 6 to last for a continuous period of not less than 12 months.” 42 U.S.C. § 423(d)(1)(A). However, 7 “[a]n individual shall be determined to be under a disability only if [their] physical or mental 8 impairment or impairments are of such severity that [they are] not only unable to do [their] previous 9 work but cannot, considering [their] age, education, and work experience, engage in any other kind 10 of substantial gainful work which exists in the national economy.” *Id.* § 423(d)(2)(A). 11 “The Social Security Regulations set out a five-step sequential process for determining 12 whether a claimant is disabled within the meaning of the Social Security Act.” *Tackett v. Apfel*, 180 13 F.3d 1094, 1098 (9th Cir. 1999) (citing 20 C.F.R. § 404.1520). The Ninth Circuit has provided the 14 following description of the sequential evaluation analysis: 15 In step one, the ALJ determines whether a claimant is currently engaged in substantial gainful activity. If so, the claimant is not disabled. If not, the ALJ 16 proceeds to step two and evaluates whether the claimant has a medically severe impairment or combination of impairments. If not, the claimant is not disabled. If 17 so, the ALJ proceeds to step three and considers whether the impairment or combination of impairments meets or equals a listed impairment under 20 C.F.R. pt. 18 404, subpt. P, [a]pp. 1. If so, the claimant is automatically presumed disabled. If 19 not, the ALJ proceeds to step four and assesses whether the claimant is capable of performing [their] past relevant work. If so, the claimant is not disabled. If not, the 20 ALJ proceeds to step five and examines whether the claimant has the [RFC] . . . to perform any other substantial gainful activity in the national economy. If so, the 21 claimant is not disabled. If not, the claimant is disabled. 22 *Burch v. Barnhart*, 400 F.3d 676, 679 (9th Cir. 2005). “If a claimant is found to be ‘disabled’ or 23 ‘not disabled’ at any step in the sequence, there is no need to consider subsequent steps.” *Tackett*, 24 180 F.3d at 1098 (citing 20 C.F.R. § 404.1520). 25 “The claimant carries the initial burden of proving a disability in steps one through four of 26 the analysis.” *Burch*, 400 F.3d at 679 (citing *Swenson v. Sullivan*, 876 F.2d 683, 687 (9th Cir. 1989)). 27 “However, if a claimant establishes an inability to continue [their] past work, the burden shifts to 28 the Commissioner in step five to show that the claimant can perform other substantial gainful work.” 1 *Id.* (citing *Swenson*, 876 F.2d at 687). 2 B. Scope of Review 3 “This court may set aside the Commissioner’s denial of [social security] benefits [only] 4 when the ALJ’s findings are based on legal error or are not supported by substantial evidence in the 5 record as a whole.” *Tackett*, 180 F.3d at 1097 (citation omitted). “Substantial evidence . . . is ‘more 6 than a mere scintilla,’” and means only “such relevant evidence as a reasonable mind might accept 7 as adequate to support a conclusion.” *Biestek v. Berryhill*, 587 U.S. 97, 103 (2019) (quoting *Consol. 8 Edison Co. v. NLRB*, 305 U.S. 197, 229 (1938)); see also *Ford v. Saul*, 950 F.3d 1141, 1154 (9th 9 Cir. 2020).

10 “This is a highly deferential standard of review.” *Valentine v. Comm’r of Soc. Sec. Admin.*, 11

574 F.3d 685, 690 (9th Cir. 2009). “The ALJ’s findings will be upheld if supported by inferences 12 reasonably drawn from the record.” *Tommasetti v. Astrue*, 533 F.3d 1035, 1038 (9th Cir. 2008) 13 (citation omitted). Additionally, “[t]he court will uphold the ALJ’s conclusion when the evidence 14 is susceptible to more than one rational interpretation.” *Id.*; see, e.g., *Edlund v. Massanari*, 253 F.3d 15 1152, 1156 (9th Cir. 2001) (“If the evidence is susceptible to more than one rational interpretation, 16 the court may not substitute its judgment for that of the Commissioner.” (citations omitted)). 17 Nonetheless, “the Commissioner’s decision ‘cannot be affirmed simply by isolating a 18 specific quantum of supporting evidence.’” *Tackett*, 180 F.3d at 1098 (quoting *Sousa v. Callahan*, 19 143 F.3d 1240, 1243 (9th Cir. 1998)). “Rather, a court must ‘consider the record as a whole, 20 weighing both evidence that supports and evidence that detracts from the [Commissioner’s] 21 conclusion.’” *Id.* (quoting *Penny v. Sullivan*, 2 F.3d 953, 956 (9th Cir. 1993)). 22 Finally, courts “may not reverse an ALJ’s decision on account of an error that is harmless.” 23 *Molina v. Astrue*, 674 F.3d 1104, 1111 (9th Cir. 2012) (citing *Stout v. Comm’r, Soc. Sec. Admin.*, 24 454 F.3d 1050, 1055–56 (9th Cir. 2006)). Harmless error “exists when it is clear from the record 25 that ‘the ALJ’s error was inconsequential to the ultimate nondisability determination.’” *Tommasetti*, 26 533 F.3d at 1038 (quoting *Robbins v. Soc. Sec. Admin.*, 466 F.3d 880, 885 (9th Cir. 2006)). “[T]he 27 burden of showing that an error is harmful normally falls upon the party attacking the agency’s 28 determination.” *Shinseki v. Sanders*, 556 U.S. 396, 409 (2009) (citations omitted).

1 IV. DISCUSSION

2 Plaintiff contends that the ALJ harmfully erred in discounting (1) Plaintiff’s testimony 3 regarding her subjective complaints and (2) Dr. Faurbo’s opinion. (Doc. 18 at 6–16.) For the 4 reasons set forth below, the Court determines that the ALJ did not err. 5 A. The ALJ Properly Evaluated Plaintiff’s Testimony 6 1. Legal Standard 7 In evaluating the credibility of a claimant’s testimony regarding their impairments, an ALJ 8 must engage in a two-step analysis. *Vasquez v. Astrue*, 572 F.3d 586, 591 (9th Cir. 2009). First, 9 the ALJ must determine whether the claimant has presented objective medical evidence of an 10 underlying impairment that could reasonably be expected to produce the symptoms alleged. *Id.* 11 The claimant is not required to show that their impairment “could reasonably be expected to cause 12 the severity of the symptom she has alleged; she need only show that it could reasonably have 13 caused some degree of the symptom.” *Id.* (quoting *Lingenfelter v. Astrue*, 504 F.3d 1028, 1036 14 (9th Cir. 2007)). If the claimant meets the first test and there is no evidence of malingering, the 15 ALJ can only reject the claimant’s testimony about the severity of the symptoms if they give 16 “specific, clear and convincing reasons” for the rejection. *Id.* As the Ninth Circuit has explained: 17 The ALJ may consider many factors in weighing a claimant’s credibility, including

(1) ordinary techniques of credibility evaluation, such as the claimant’s reputation

18 for lying, prior inconsistent statements concerning the symptoms, and other testimony by the claimant that appears less than candid; (2) unexplained or 19 inadequately explained failure to

seek treatment or to follow a prescribed course of treatment; and (3) the claimant's daily activities. If the ALJ's finding is supported 20 by substantial evidence, the court may not engage in second-guessing. 21 *Tommasetti*, 533 F.3d at 1039 (citations and internal quotation marks omitted); see also *Bray v. Comm'r of Soc. Sec. Admin.*, 554 F.3d 1219, 1226–27 (9th Cir. 2009). Other factors the ALJ may 23 consider include a claimant's work record and testimony from physicians and third parties 24 concerning the nature, severity, and effect of the symptoms of which he complains. *Light v. Social Sec. Admin.*, 119 F.3d 789, 792 (9th Cir. 1997). 26 The clear and convincing standard is “not an easy requirement to meet,” as it is “the most 27 demanding required in Social Security cases.” *Garrison v. Colvin*, 759 F.3d 995, 1015 (9th Cir. 28 2014) (quoting *Moore v. Comm'r of Soc. Sec. Admin.*, 278 F.3d 920, 924 (9th Cir. 2002)). General 1 findings are not sufficient to satisfy this standard; the ALJ “must identify what testimony is not 2 credible and what evidence undermines the claimant's complaints.” *Burrell v. Colvin*, 775 F.3d 3 1133, 1138 (9th Cir. 2014) (quoting *Lester*, 81 F.3d at 834)). 4 2. Analysis 5 The ALJ found that Plaintiff's “medically determinable impairments could reasonably be 6 expected to cause the alleged symptoms.” (AR 29.) The ALJ also found that “[Plaintiff's] 7 statements concerning the intensity, persistence and limiting effects of these symptoms are not 8 entirely consistent with the medical evidence and other evidence in the record for the reasons 9 explained in this decision.” (Id.) Since the ALJ found that Plaintiff's “medically determinable 10 impairments could reasonably be expected to cause the alleged symptoms,” the only remaining 11 issue is whether the ALJ provided “specific, clear and convincing reasons” for Plaintiff's adverse 12 credibility finding. See *Vasquez*, 572 F.3d at 591. 13 Here, the ALJ found that Plaintiff's credibility was undermined by Plaintiff's activities of 14 daily living, as well as the objective medical evidence of record, including records of improvement 15 with treatment. (AR 29–31.) The Court takes each finding in turn. 16 a. Plaintiff's Activities of Daily Living 17 In determining whether to credit Plaintiff's subjective complaints, the ALJ 18 “considered factors other than the objective medical evidence alone, including: the claimant's daily 19 activities.” (AR 31.) As summarized by the ALJ, the record demonstrates Plaintiff has an ability 20 to use a computer, (AR 50); text, (AR 630); use the telephone, (AR 630); read, (AR 71, 630); cook, 21 (AR 49, 101, 461, 507); and use public transportation (AR 51, 97–98). The Commissioner asserts 22 the ALJ properly discredited Plaintiff on this basis, (see Doc. 15 at 4–5), while Plaintiff contends 23 that the ALJ was not sufficiently specific in the articulation of this reason to permissibly discredit 24 Plaintiff's testimony, (see Doc. 13 at 11–12). 25 An ALJ may properly consider a claimant's daily activities when evaluating credibility. 26 *Fair v. Bowen*, 885 F.2d 597, 603 (9th Cir. 1989) (the nature of daily activities may be considered 27 when evaluating credibility). In evaluating a claimant's credibility, an ALJ may also consider 28 inconsistencies between the claimant's testimony and the claimant's conduct and whether the 1 claimant engages in daily activities inconsistent with the alleged symptoms. *Molina*, 674 F.3d at 2 1112. Even where those activities suggest some difficulty functioning, they are grounds for 3 discrediting Plaintiff's testimony to the extent that

they contradict claims of a totally debilitating 4 impairment. *Id.* at 1113. 5 Plaintiff's above-described activities tend to suggest that she has functional abilities 6 consistent with the ALJ's assessed RFC—specifically that she has “no exertional limitations and 7 can understand, remember, and carry out simple instructions; she can use judgement to make simple 8 work-related decisions; she can frequently interact with supervisors; she can occasionally interact 9 with co-workers and the public; and she cannot perform work requiring a specific production rate, 10 such as assembly line work or work with hourly quotas.” (AR 31), see *Fair*, 885 F.2d at 603 11 (finding that if a claimant has the ability to perform activities “that involve many of the same 12 physical tasks as a particular type of job, it would not be farfetched for an ALJ to conclude that the 13 claimant's pain does not prevent her from working”); see also, e.g., *Stubbs-Danielson v. Astrue*, 14 539 F.3d 1169, 1175 (9th Cir. 2008) (finding that the ALJ sufficiently explained his reasons for 15 discrediting the claimant's testimony because the record reflected that the claimant performed 16 normal activities of daily living, including cooking, housecleaning, doing laundry, and helping her 17 husband managing finances); *Morgan*, 169 F.3d at 600 (ALJ's determination regarding claimant's 18 ability to “fix meals, do laundry, work in the yard, and occasionally care for his friend's child” was 19 a specific finding sufficient to discredit the claimant's credibility); *Kelly v. Astrue*, 471 F. App'x 20 674, 677 (9th Cir. 2012) (holding that ALJ properly made an adverse credibility finding because, 21 in part, claimant's daily activities included driving, washing the dishes, shopping, and caring for 22 her two children); *Nelson v. Colvin*, No. 1:15-cv-00696-SKO, 2016 WL 3407627, at *20 (E.D. Cal.

23 June 20, 2016) (ALJ properly discredited subjective complaints of claimant who suffered from 24 chronic back problems where claimant engaged in activities such as preparing simple meals, 25 washing dishes, driving a car, shopping for groceries and household supplies 2–3 times a week, 26 walking up to a mile, using a computer for about half an hour at a time, visiting with family, 27 mopping and vacuuming, independently handling her own finances, and doing yoga tapes at 28 home.). 1 The record also contains some contrary evidence, such as Plaintiff's statements that she 2 occasionally gets off at the wrong stop when using public transportation. (See AR 51, 56.) The 3 Court concludes, however, that the ALJ properly discredited Plaintiff's testimony that her 4 limitations render her completely unable to work. *Fair*, 885 F.2d at 604; see also *Bunnell*, 947 F.2d 5 at 346 (“So long as the adjudicator makes specific findings that are supported by the record, the 6 adjudicator may discredit the claimant's allegations based on inconsistencies in the testimony or 7 on relevant character evidence.”). Where the ALJ makes a reasonable interpretation of Plaintiff's 8 testimony, it is not the Court's role to second-guess it. *Rollins*, 261 F.3d at 857 (affirming ALJ's 9 credibility determination even where the claimant's testimony was somewhat equivocal about how 10 regularly she was able to keep up with all the activities and noting that the ALJ's interpretation 11 “may not be the only reasonable one”). 12 b. Objective Medical Evidence & Efficacy of Treatment 13 The ALJ's second ground for discounting Plaintiff's credibility is that 14 Plaintiff's allegations of significant limitations are inconsistent with the medical evidence of 15

record. (AR 29–30.) In reviewing this evidence, the ALJ found that Plaintiff’s subjective symptom
16 testimony was inconsistent with the medical evidence, including records showing improvement
17 with treatment. (AR 30.) Though the Commissioner asserts the ALJ properly discredited
Plaintiff 18 on these bases, (see Doc. 15 at 3–7), Plaintiff again contends that the ALJ was not
sufficiently 19 specific in the articulation of this reason to permissibly discredit Plaintiff’s
testimony, (see Doc. 13 20 at 8–11). 21 As to the ALJ’s reliance on Plaintiff’s improvement with
treatment, the Court agrees with 22 the Commissioner. In evaluating a claimant’s claimed
symptoms, an ALJ may find a plaintiff less 23 credible when their symptoms can be controlled by
treatment and/or medication. See 20 C.F.R. 24 § 416.929(c)(3)(iv)–(v); see also *Warre v. Comm’r*,
439 F.3d 1001, 1006 (9th Cir. 2006) 25 (“Impairments that can be controlled effectively with
medication are not disabling for the purposes 26 of determining eligibility for [disability]
benefits.”). 27 It is well settled in the Ninth Circuit that “it is error to reject a claimant’s testimony
merely 28 because symptoms wax and wane in the course of treatment. Cycles of improvement
and 1 debilitating symptoms are a common occurrence, and in such circumstances it is error for an
ALJ 2 to pick out a few isolated instances of improvement over a period of months or years and to
treat 3 them as a basis for concluding a claimant is capable of working.” *Garrison*, 795 F.3d at
1017. 4 Here, the ALJ did not discredit Plaintiff due to waxing and waning symptoms. There is 5
substantial evidence in the record that Plaintiff’s mental condition had improved with medications
6 and treatment during the relevant period. For example, in July 2022, Plaintiff reported that she
was 7 “compliant on medication which is helping reduce her symptoms.” (AR 565.) In a record
from

8 May 2023, a provider noted that Plaintiff “has depression and anxiety, [but that] symptoms
[were]

9 stable with medications.” (AR 638.) And in June of 2023, records reflect that plaintiff had an 10
“improved” response to medication with which she was “compliant.” (AR 620.) As there is 11
substantial evidence of Plaintiff’s improvement with treatment, such is a clear and convincing 12
reason for not finding Plaintiff’s subjective complaints fully credible. See *Morgan v. Comm’r of*
13 *Soc. Sec. Admin.*, 169 F.3d 595, 599 (9th Cir. 1999) (the ALJ’s adverse credibility
determination 14 properly accounted for physician’s report of improvement with medication);
Odle v. Heckler, 707 15 F.2d 439, 440 (9th Cir. 1983) (affirming denial of benefits and noting that
claimant’s impairments 16 were responsive to treatment). 17 As to the other objective medical
evidence, specifically various “normal” findings, relied 18 on by the ALJ, the Court agrees with
Plaintiff as to her complaints related to her mental health and 19 cognition, but not as to her low
vision. Under *Brown-Hunter v. Colvin*, the observations an ALJ 20 makes as part of the summary
of the medical record are not sufficient to establish clear and 21 convincing reasons for rejecting a
Plaintiff’s credibility. 806 F.3d 487, 494 (9th Cir. 2015). Instead, 22 the ALJ must link the medical
evidence at issue to the Plaintiff’s testimony. *Id.* 23 The Court finds that the ALJ properly linked
their assessment of the inconsistency of 24 Plaintiff’s subjective complaints of low vision with the

relevant medical evidence. (AR 30 25 (“[r]egarding the [Plaintiff’s] visual complaints...”); see Brown-Hunter, 806 F.3d at 494. 26 However, as to Plaintiff’s mental health and cognition, the ALJ did not link the medical evidence 27 to Plaintiff’s testimony. To be sure, the record contains evidence of repeatedly normal 28 examinations and mental, intelligence, insight and judgment, and cognitive status findings. (See 1 AR 530–31, 533, 536–37, 539–40, 542–43, 545–46, 548, 551–52, 554, 557–58, 562, 567–68.) Yet 2 the ALJ failed to specify which parts of this medical evidence undermined specific aspects of 3 Plaintiff’s subjective symptom testimony. See Brown-Hunter, 806 F.3d at 493. Under Brown- 4 Hunter, the observations an ALJ makes as part of the summary of the medical record are not 5 sufficient to establish clear and convincing reasons for rejecting a Plaintiff’s credibility. Id. at 494. 6 Instead, the ALJ must link the medical evidence at issue to the Plaintiff’s testimony. Id. Here, the 7 ALJ did not do so. 8 This error is harmless, however. Here, inconsistency with the normal findings in the 9 objective medical record was not the sole reason for which the ALJ discredited Plaintiff’s 10 testimony. The ALJ articulated several other permissible reasons for discounting Plaintiff’s 11 credibility, namely, Plaintiff’s improvement with treatment and the evidence of Plaintiff’s daily 12 activities as set forth above. Thus, the ALJ’s lack of linkage as Plaintiff’s subjective complaints of 13 mental limitations is not harmful error. See Carmickle v. Comm’r, 533 F.3d 1155, 1162 (9th Cir. 14 2008) (citing Batson, 359 F. 3d at 1197); Tonapetyan v. Halter, 242 F. 3d 1144, 1148 (9th Cir. 15 2001). 16 In sum, the Court finds that the ALJ offered clear and convincing reasons to discredit 17 Plaintiff’s testimony regarding the extent of her limitations. While Plaintiff may disagree with the 18 ALJ’s interpretation of the medical evidence and the relevance of Plaintiff’s daily activities (see 19 Doc. 13 at 8–12), it is not within the province of this Court to second-guess the ALJ’s reasonable

20 interpretation of that evidence, even if such evidence could give rise to inferences more favorable 21 to Plaintiff. See Rollins v. Massanari, 261 F.3d 853, 857 (9th Cir. 2001) (citing Fair v. Bowen, 885 22 F.2d 597, 604 (9th Cir. 1989)). 23 B. The ALJ Properly Evaluated Dr. Faurbo’s Opinion 24 1. Legal Standard 25 Plaintiff’s claim is governed by the agency’s revised regulations concerning how 26 ALJs must evaluate medical opinions for claims filed on or after March 27, 2017. 20 C.F.R. 27 § 404.1520c. The regulations set “supportability” and “consistency” as “the most important 28 factors” when determining the opinions’ persuasiveness. 20 C.F.R. § 404.1520c(b)(2). And 1 although the regulations eliminate the “physician hierarchy,” deference to specific medical 2 opinions, and assigning “weight” to a medical opinion, the ALJ must still “articulate how [they] 3 considered the medical opinions” and “how persuasive [they] find all of the medical opinions.” 20 4 C.F.R. § 404.1520c(a)–(b). 5 The Ninth Circuit has issued the following guidance regarding treatment of physicians’ 6 opinions after implementation of the revised regulations: 7 The revised social security regulations are clearly irreconcilable with our caselaw according special deference to the opinions of treating and examining physicians on 8 account of their relationship with the claimant. See 20 C.F.R. § 404.1520c(a) (“We will not defer

or give any specific evidentiary weight, including controlling weight, 9 to any medical opinion(s) . . . , including those from your medical sources.”). Our 10 requirement that ALJs provide “specific and legitimate reasons” for rejecting a treating or examining doctor’s opinion, which stems from the special weight given 11 to such opinions, see *Murray*, 722 F.2d at 501–02, is likewise incompatible with the revised regulations. Insisting that ALJs provide a more robust explanation when 12 discrediting evidence from certain sources necessarily favors the evidence from 13 those sources—contrary to the revised regulations. 14 *Woods v. Kijakazi*, 32 F.4th 785, 792 (9th Cir. 2022). Accordingly, under the new regulations, “the 15 decision to discredit any medical opinion, must simply be supported by substantial evidence.” *Id.* 16 at 787. 17 In conjunction with this requirement, “[t]he agency must ‘articulate . . . how persuasive’ it 18 finds ‘all of the medical opinions’ from each doctor or other source, and ‘explain how [it] 19 considered the supportability and consistency factors’ in reaching these findings.” *Id.* at 792 (citing 20 20 C.F.R. § 404.1520c(b)). “Supportability means the extent to which a medical source supports 21 the medical opinion by explaining the ‘relevant . . . objective medical evidence.’” *Id.* at 791–92 22 (quoting 20 C.F.R. § 404.1520c(c)(1)). “Consistency means the extent to which a medical opinion 23 is ‘consistent . . . with the evidence from other medical sources and nonmedical sources in the 24 claim.’” *Id.* at 792 (quoting 20 C.F.R. § 404.1520c(c)(2)). 25 As the Ninth Circuit also observed, The revised regulations recognize that a medical source’s relationship with the 26 claimant is still relevant when assessing the persuasiveness of the source’s opinion. 27 See *id.* § 404.1520c(c)(3). Thus, an ALJ can still consider the length and purpose of the treatment relationship, the frequency of examinations, the kinds and extent of 28 examinations that the medical source has performed or ordered from specialists, and 1 claimant’s records. *Id.* § 404.1520c(c)(3)(i)–(v). However, the ALJ no longer needs 2 to make specific findings regarding these relationship factors.

3 *Id.* at 792. “A discussion of relationship factors may be appropriate when ‘two or more medical 4 opinions . . . about the same issue are . . . equally well-supported . . . and consistent with the record 5 . . . but are not exactly the same.’” *Id.* (quoting § 404.1520c(b)(3)). “In that case, the ALJ ‘will 6 articulate how [the agency] considered the other most persuasive factors.’” *Id.* Finally, if the 7 medical opinion includes evidence on an issue reserved to the Commissioner, the ALJ need not 8 provide an analysis of the evidence in his decision, even in the discussions required by 20 C.F.R. 9 § 404.1520c. See 20 C.F.R. § 404.1520b(c)(3). 10 With these legal standards in mind, the Court reviews the weight given to Dr. Faurbo’s 11 opinions. 12 2. Analysis 13 In finding Dr. Faurbo’s opinion unpersuasive, the ALJ explained: 14 This opinion is not persuasive, as it is inconsistent with the essentially normal objective examination findings noted throughout the record from Fresno County 15 Behavioral health. Additionally, this opinion is at odds with the longitudinal treatment records which revealed normal memory, cognition and average 16 intelligence. It is also inconsistent with testimony that she was able to use a computer look of [sic] recipes and check her emails Additionally, such 17 limitations are not supported by the

instant objective examination findings as discussed above. 18 19 (AR 32 (citations omitted).) 20 The Court concludes that the ALJ properly evaluated the supportability and consistency of 21 Dr. Faurbo's opinion. As to supportability, the ALJ properly considered that Dr. Faurbo's opinion 22 was not supported by their own observations in the course of their evaluation of Plaintiff. (AR 32.) 23 Specifically, Dr. Faurbo's examination showed intact intelligence, adequate concentration and 24 attention, linear and logical thought process, and an ability to perform calculations. (AR 507–08.) 25 As to consistency, the ALJ found Dr. Faurbo's opinion that Plaintiff had “moderate 26 limitations in her ability to understand, remember and perform simple, written and oral 27 instructions” as well as “moderate limitations maintaining regular attendance, performing work 28 activities on a consistent basis, performing work activities without special or additional 1 supervision, accepting instruction from supervisors, interacting with coworkers and the public, and 2 in dealing with usual stresses encountered in a competitive work environment,” and “marked 3 limitations in understanding, remembering and performing complex written and oral instructions 4 and in her ability to complete a normal workday or workweek.” (Id. (citing AR 505–09).) As 5 referenced by the ALJ, mental, intelligence, insight and judgment, and cognitive status findings. 6 from May 2020 through January 2022 showed that Plaintiff was alert and cooperative, with 7 appropriate normal insight, judgment, and cognition (as relevant to memory). (See AR 530–31, 8 533, 536–37, 539–40, 542–43, 545–46, 548, 551–52, 554, 557–58, 562, 567–68.) The ALJ also 9 observed that Dr. Faurbo's opinion was inconsistent with Plaintiff's reports of being “able to use a 10 computer [to] look [up] recipes and check her emails.” (AR 32 (citing AR hearing 50; 461; 561).) 11 Based on the foregoing objective medical evidence and nonmedical evidence, the ALJ's 12 finding that Dr. Faurbo's opinion was inconsistent with the longitudinal record as a whole is legally 13 sufficient and supported by substantial evidence. It was therefore reasonable for the ALJ to 14 conclude that the record did not support the severity of Dr. Faurbo's opined restrictions, including 15 that Plaintiff would miss four days out of the workweek. (AR 675.) See *Batson v. Comm'r Soc. Sec. Admin.*, 359 F.3d 1190, 1198 (9th Cir. 2004) (“When the evidence before the ALJ is subject 17 to more than one rational interpretation, [the Court] must defer to the ALJ's conclusion.”).

18 V. CONCLUSION AND ORDER

19 Based on the foregoing, the Court finds that the ALJ's decision is supported by substantial 20 evidence and is therefore **AFFIRMED**. The Clerk of this Court is **DIRECTED** to enter judgment 21 in favor of Defendant Frank Bisignano, Commissioner of Social Security, and against Plaintiff 22 Angela Lee. 23 **IT IS SO ORDERED.** 24 25 Dated: August 13, 2025 /s/ Sheila K. Oberto .

UNITED STATES MAGISTRATE JUDGE

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