

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Sandy Valdez v. Frank Bisignano, Commissioner of Social Security

Valdez · No. 1:24-cv-0026 JLT EPG · Decided August 13, 2025

SUMMARY

The court adopted the magistrate judge’s findings and recommendations in a Social Security disability case. It denied Sandy Valdez’s motion for summary judgment, granted the Commissioner’s request to affirm the administrative decision, and entered judgment for the defendant. The court concluded that the ALJ adequately evaluated Valdez’s residual functional capacity, subjective symptom testimony, obesity, and nonsevere impairments.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Jennifer L. Thurston
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	August 13, 2025
DOCKET	1:24-cv-0026 JLT EPG
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff sought judicial review of the Commissioner of Social Security's final decision denying disability insurance benefits. After a magistrate judge issued findings and recommendations recommending affirmance, plaintiff objected. The district court conducted de novo review, adopted the findings and recommendations, denied plaintiff's motion for summary judgment and request for remand, granted the Commissioner's request to affirm, and directed entry of judgment for the Commissioner.
STANDARD OF REVIEW	Under 28 U.S.C. § 636(b)(1), the district court reviewed the objected-to findings and recommendations de novo. The court reviewed the Commissioner's decision to determine whether it was supported by substantial evidence and free of legal error. For subjective symptom testimony, absent evidence of malingering, an ALJ must provide clear and convincing reasons for rejecting such testimony.

PRECEDENTIAL VALUE	unpublished district court order; precedential status not stated in the opinion
PARTIES	Sandy Valdez v. Frank Bisignano, Commissioner of Social Security

TOPICS

judicial review of agency action administrative law summary judgment civil procedure

PRACTICE AREAS

Social Security disability administrative law federal civil procedure

QUESTIONS PRESENTED

1. Whether the ALJ erred by relying on vocational evidence despite environmental limitations in the residual functional capacity not being included in the vocational-expert hypotheticals.
2. Whether the ALJ provided legally sufficient reasons for discounting Valdez's subjective symptom testimony.
3. Whether the ALJ improperly relied on Valdez's daily activities without finding that the activities were transferable to a work setting.
4. Whether the ALJ properly evaluated Valdez's obesity and incorporated its effects into the residual functional capacity.
5. Whether the ALJ properly evaluated Valdez's nonsevere impairments at step two.

HOLDINGS

1. The ALJ provided sufficiently specific clear and convincing reasons for discounting Valdez's subjective symptom testimony by identifying testimony concerning disabling pain and linking it to medical evidence showing significant improvement after back surgery and favorable results from knee arthroplasty.
2. Daily activities may support an adverse credibility determination on either of two independent grounds: the activities contradict the claimant's testimony, or the activities meet the threshold for transferable work skills. When the ALJ relies on contradiction, a separate finding of transferability is not required.
3. Any error in omitting the environmental limitations from the vocational-expert hypotheticals was harmless because the Dictionary of Occupational Titles listing for accounting clerk did not include exposure to the environmental conditions identified in Valdez's residual functional capacity.
4. The ALJ did not err in evaluating obesity or in finding Valdez's right hip pain, upper-extremity numbness, depression, and anxiety nonsevere where the ALJ considered the impairments, applied the applicable mental-impairment criteria, accounted for obesity and musculoskeletal impairments in limiting Valdez to a reduced range of sedentary work, and the record supported the findings.

KEY QUOTATIONS

“Thus, the Ninth Circuit determined a claimant’s level of activity can form the basis for an ALJ to discount subjective statements where: (1) the activities contradict a claimant’s testimony or (2) the level of activity “meet[s] the threshold for transferable work skills.”” (Opinion at 9)

“The ALJ carried the burden to identify clear and convincing reasons to reject Plaintiff’s subjective complaints and set forth findings “sufficiently specific to allow a reviewing court to conclude the ALJ rejected the claimant’s testimony on permissible grounds.”” (Opinion at 9)

FACTUAL BACKGROUND

Sandy Valdez applied for a period of disability and disability insurance benefits, alleging disability beginning May 6, 2021. The ALJ found severe lumbar degenerative disc disease status post fusion, a left-knee condition status post partial joint replacement, and obesity, but found other identified conditions nonsevere. The ALJ assigned a reduced sedentary residual functional capacity and determined that Valdez could perform her past relevant work as an accounting clerk. The district court relied on medical evidence showing improvement after surgery and on activities documented in physical therapy and postsurgical records that were inconsistent with Valdez's hearing testimony about the severity of her limitations.

PROCEDURAL HISTORY

The administrative law judge applied the five-step sequential evaluation, found severe impairments including lumbar degenerative disc disease, a left-knee condition, and obesity, determined that plaintiff retained the capacity for a reduced range of sedentary work, and concluded at step four that she could perform her past work as an accounting clerk. The magistrate judge recommended affirming the administrative decision. The district court rejected plaintiff's specific objections after de novo review and entered judgment for the Commissioner.

DISPOSITION

other

CASES CITED

- Dawson v. Marshall, 561 F.3d 930, 932 (9th Cir. 2009)
- Lockert v. Faulkner, 843 F.2d 1015, 1019 (7th Cir. 1988)
- Kenneth V. v. O’Malley, 2024 WL 5102879, at *3 (S.D. Cal. Aug. 26, 2024)
- Pete v. U.S. Department of Treasury (E.D. Tex. July 11, 2025)
- Greenwood v. FAA, 28 F.3d 971, 977 (9th Cir. 1994)
- Lingenfelter v. Astrue, 504 F.3d 1028, 1035-36 (9th Cir. 2007)
- Bunnell v. Sullivan, 947 F.2d 341, 344 (9th Cir. 1991)
- Fair v. Bowen, 885 F.2d 597, 603 (9th Cir. 1989)
- Thomas v. Barnhart, 278 F.3d 947, 958-59 (9th Cir. 2002)
- Morgan v. Commissioner of the Social Security Administration, 169 F.3d 595, 600 (9th Cir. 1999)
- Rollins v. Massanari, 261 F.3d 853, 857 (9th Cir. 2001)

- Burch v. Barnhart, 400 F.3d 676, 681 (9th Cir. 2005)
- Holohan v. Massanari, 246 F.3d 1195, 1208 (9th Cir. 2001)
- Greger v. Barnhart, 464 F.3d 968, 972 (9th Cir. 2006)
- Brown-Hunter v. Colvin, 806 F.3d 487, 491, 493-95 (9th Cir. 2015)
- Lambert v. Saul, 980 F.3d 1266, 1277 (9th Cir. 2020)
- Holcomb v. Saul, 832 Fed. App'x. 505, 506 (9th Cir. Dec. 28, 2020)
- Orn v. Astrue, 495 F.3d 625, 639 (9th Cir. 2007)
- Valentine v. Commissioner of Social Security Administration, 574 F.3d 685, 693 (9th Cir. 2009)
- Stubbs-Danielson v. Astrue, 539 F.3d 1169, 1175 (9th Cir. 2008)
- Moisa v. Barnhart, 367 F.3d 882, 885 (9th Cir. 2004)

OPINION

(SS) Valdez v. Commissioner of Social Security
PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 SANDY VALDEZ,) Case No.: 1:24-cv-0026 JLT EPG) 12 Plaintiff,) ORDER
ADOPTING THE FINDINGS AND

) RECOMMENDATIONS, DENYING

13 v.) PLAINTIFF'S MOTION FOR SUMMARY

) JUDGMENT, GRANTING DEFENDANT'S

14 FRANK BISIGNANO,) REQUEST TO AFFIRM, AND DIRECTING

Commissioner of Social Security1,) ENTRY OF JUDGMENT IN FAVOR OF

15) DEFENDANT

Defendant.) 16) (Docs. 13, 17, and 19) 17 Sandy Valdez seeks judicial review of a final decision denying her application for a period of 18 disability and disability insurance benefits under Title II of the Social Security Act. (Docs. 1, 13.) 19 Plaintiff asserts the ALJ erred in evaluating the record—including medical and testimonial evidence— 20 and requests the matter remanded for further administrative proceedings. (See Doc. 13 at 2.) The 21 Commissioner asserts the ALJ's analysis was proper, and substantial evidence supports the ALJ's 22 findings. (Doc. 17 at 2, 16.) For the reasons set forth below, Plaintiff's appeal is denied and 23 Commissioner's request to affirm is granted. 24 I. Decision of the ALJ 25 The ALJ evaluated Plaintiff's application using the five-step sequential evaluation set forth in 26 20 C.F.R. § 404.1520. (Doc. 12-3 at 20-28.) First, the ALJ determined Plaintiff did not engage in 27 28 1 Frank Bisignano became the Commissioner of Social Security on May 6, 2025. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, the Court substitutes Mr. Bisignano as the defendant in this suit. 1 substantial gainful activity after the alleged onset date of May 6, 2021. (Id. at 21.) Second, the ALJ 2 found Plaintiff's severe

impairments included “lumbar degenerative disc disease status post fusion, left 3 knee status post partial joint replacement, and obesity.” (Id.) The ALJ noted Plaintiff also had right 4 hip pain, upper extremity numbness, depression, and anxiety. (Id. at 21-22.) However, the ALJ found 5 these impairments were “nonsevere.” (Id. at 22-3.) 6 At step three, the ALJ determined Plaintiff’s impairments did not meet or medically equal a 7 Listing. (Doc. 12-3 at 23-24.) Next, the ALJ found: 8 [T] the claimant has the residual functional capacity to perform sedentary work as defined in 20 CFR 404.1567(b). The claimant is limited to 9 occasional climbing ramps or stairs but never ladders, ropes, or scaffolds. The claimant can occasionally balance, stoop, crouch, crawl, or kneel. 10 Additionally, the claimant must avoid concentrated exposure to extreme cold, vibration, and hazards such as moving machinery and unprotected 11 heights. 12 (Id. at 24.) With the identified RFC, the ALJ determined at step four that Plaintiff was “capable of 13 performing past relevant work as an accounting clerk as actually and generally performed.” (Id. at 27; 14 see also id. at 27-28.) In so finding, the ALJ considered the testimony of a vocational expert and the 15 definition of the position in the Dictionary of Occupational Titles. (Id. at 28.) Therefore, the ALJ 16 concluded Plaintiff was not disabled as defined by the Social Security Act. (Id.) 17 II. Issues Raised by Plaintiff 18 Plaintiff seeks remand for further proceedings, asserting the following: (1) the ALJ erred by 19 residual functional capacity that “was not the same as any hypothetical given to the vocational expert,” 20 including environmental limitations and exposure cold, vibration, and hazards; (2) the ALJ “failed to 21 properly analyze [Plaintiff’s] subjective symptom testimony”; (3) the ALJ “improperly used activities 22 of daily living to attack [her] credibility in the subjective symptom analysis”; (4) the ALJ did not 23 properly address Plaintiff’s obesity; and (5) the ALJ did not “employ the de minimus standard for 24 finding claims non-severe at Step Two.” (Doc. 13 at 2 [emphasis omitted]; see also Doc. 13-1 at 3-14.) 25 Plaintiff asserted these “errors were outcome determinative and the case should be remanded back to 26 Social Security.” (Doc. 13-1 at 14 [emphasis omitted].) 27 III. Findings and Recommendations 28 The magistrate judge found Plaintiff failed to show the ALJ erred at Step Four in evaluating 1 Plaintiff’s past relevant work. (Doc. 19 at 2-5.) The magistrate judge found: 2 Contrary to Plaintiff’s contention, the ALJ did not overlook the environmental limitations in her step four analysis. Rather, the ALJ 3 expressly acknowledged in her decision that the RFC contained “environmental limitations that were not presented to the vocational expert 4 at the hearing,” but the ALJ stated that “according to the DOT, the position of accounting clerk does not have exposure to the environmental 5 conditions such as extreme cold, vibration, and hazards.” 6 (Doc. 19 at 4, quoting AR 25 [Doc. 12-3 at 28].) In addition, the magistrate judge reviewed the 7 Dictionary of Occupational Titles and confirmed the “listing does not include the environmental 8 limitations assessed in Plaintiff’s RFC.” (Id., citing DICOT 216.482-010 Accounting Clerk, 1991 WL 9 671933 (Jan. 1, 2016).) Consequently, the magistrate judge determined that “even if the ALJ erred by 10 omitting the RFC’s environment limitations in the hypotheticals posed to the vocational expert, any 11 error was harmless.” (Id.) 12 Next, the magistrate judge found that “the ALJ provided findings

sufficiently specific to permit 13 the Court to conclude that the ALJ did not arbitrarily discredit Plaintiff's testimony." (Doc. 19 at 8 14 [modifications adopted, citation omitted].) The magistrate judge determined that the ALJ "reasonably 15 determined that the medical evidence, which generally showed self-reported and objective 16 improvement, was inconsistent with Plaintiff's allegations of disabling physical limitations." (Id.) In 17 addition, the magistrate judge found "the ALJ made a reasonable determination that Plaintiff's daily 18 activities, as reported in her physical therapy and other post-surgical treatment records, were 19 inconsistent with her hearing testimony." (Id.) Therefore, the magistrate judge found Plaintiff did not 20 show error by the ALJ in addressing her subjective complaints. (Id. at 5-9.) 21 The magistrate judge also found "no error in the ALJ's treatment of Plaintiff's obesity." (Doc. 22 19 at 10.) Specifically, the magistrate judge observed that "the ALJ found Plaintiff's obesity was a 23 severe impairment at step two," and "determined that Plaintiff's obesity, either alone or in combination 24 with Plaintiff's other impairments, did not meet or medically equal a listing" at step three. (Id. at 9.) 25 Further, the magistrate judge found the ALJ limited Plaintiff to "'a reduced range of sedentary exertion' 26 due to the 'combination of Plaintiff's obesity and musculoskeletal impairments.'" (Id. at 9-10, quoting 27 AR 25 [Doc. 12-3 at 26], cleaned up.) The magistrate judge also observed that Plaintiff did not identify 28 any functional limitations due to her obesity that she believed the ALJ should have included in the 1 RFC. (Id. at 10.) Thus, the magistrate judge found Plaintiff failed to show the ALJ erred addressing 2 her obesity. (Id.) 3 Finally, the magistrate judge noted that Plaintiff argued "the ALJ erroneously determined that 4 her right hip pain, upper extremity numbness, depression and anxiety were non-severe impairments." 5 (Doc. 19 at 10.) The magistrate judge found the ALJ properly evaluated Plaintiff's mental 6 impairments using the "Paragraph B" criteria, and substantial evidence supported the ALJ's analysis 7 regarding the identified impairments. (Id. at 11-12.) The magistrate judge also observed that 8 "Plaintiff does not identify any evidence that the ALJ failed to consider or otherwise explain why the 9 record does not support the ALJ's step two findings." (Id. at 12.) Consequently, the magistrate judge 10 determined Plaintiff did not show any error at this step of the sequential evaluation. (Id.) 11 The magistrate judge recommended the Court deny Plaintiff's motion for summary judgment, 12 grant the Commissioner's request to affirm the administrative decision, and enter judgment in favor of 13 the Commissioner. (Doc. 19 at 12.) 14 IV. Objections and Reply 15 Plaintiff requests the Court decline to adopt the Findings and Recommendations and grant her 16 motion for summary judgment. (Doc. 20 at 2.) Initially, Plaintiff indicates that she "reserves the right 17 to raise any of the previous arguments raised" in her memorandum of points and authorities to support 18 the request for remand "should this case have any further appeals and incorporates her arguments into 19 this objection." (Id. [emphasis omitted].) Plaintiff then indicated, "For the purpose of this objection 20 Plaintiff presents arguments as to what she believes are the primary issues with the [Findings and 21 Recommendations]." (Id.) 22 Plaintiff indicates that she disagrees with the magistrate judge's "failure to find error with the 23 ALJ's review of the subjective symptoms." (Doc. 20 at 3

[emphasis omitted].) Plaintiff observes that the Ninth Circuit determined that an ALJ must “link the testimony they found not credible with the evidence from the record that contradicted the testimony.” (Id., citing *Lambert v. Saul*, 980 F.3d 1266, 1277 (9th Cir. 2020). Plaintiff notes that in *Brown-Hunter*, the Ninth Circuit also found “the ALJ erred because a specific linkage between the testimony and evidence was not provided.” (Id., citing *Brown-Hunter*, 806 F.3d 487, 494-95 (9th Cir. 2015).) Plaintiff argues that the ALJ did not identify what testimony she found was inconsistent with the medical evidence, and thus “commit[ed] the exact error that was overturned in *Lambert*.” (Id. at 5.) According to Plaintiff, the magistrate judge also erred in finding the ALJ properly evaluated her daily activities. (Doc. 20 at 5.) Plaintiff argues that the magistrate judge “does not address the two issues raised by the Plaintiff in her brief, namely that the ALJ Opinion does not apply the 9th Circuit law that in order to rely on daily activities, those activities need to contradict the claimant’s other testimony, and those activities need to be transferable to a work setting.” (Id. at 6.) Plaintiff contends, “Neither the ALJ Opinion nor the R&R even mention transferable skills nor do they discuss the extent that the Plaintiff could perform those activities.” (Id.) Plaintiff concludes this “is a clear error” that warrants remand. (Id.) The Commissioner filed a response to the objections, asserting they “have no merit.” (Doc. 21 at 1.) The Commissioner notes Plaintiff does not object to the magistrate judge’s analysis “relating to ALJ’s findings (1) at step two as to the severity of Plaintiff’s medically determinable impairments, (2) at step four that Plaintiff could perform her past relevant work with her residual functional capacity, and (3) as to Plaintiff’s obesity,” and asserts the Court should adopt these findings. (Id. at 2.) The Commissioner contends, “the ALJ reasonably discounted Plaintiff’s subjective symptom testimony on the basis of objective and self-reported improvement in her alleged physical impairments, among other inconsistencies.” (Id.) In addition, the Commissioner argues there are two grounds for using daily activities to assess testimony, including whether the activities contradicted Plaintiff’s testimony and whether the activities meet the threshold for transferable work. (Id. at 3.) Towards this end, the Commissioner argues the test was satisfied “because the ALJ found that the daily activities reported in physical therapy records[] were inconsistent with Plaintiff’s hearing testimony, and this finding was a reasonable one...” (Id. at 3-4.) Therefore, the Commissioner concludes the Court should adopt the Findings and Recommendations. (Id. at 4.)

V. Discussion

A district judge may “accept, reject or modify, in whole or in part, the findings and recommendations...” 28 U.S.C. § 636(b)(1). If a party files objections, “the court shall make a determination of those portions of the report or specified proposed finding or recommendations to which objection is made.” Id. A de novo review requires the Court to “consider[] the matter anew, as if no decision had been rendered.” *Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009).

A. Findings to which specific objections are not raised

As an initial matter, Plaintiff states specific objections only as to the findings of the magistrate judge related to the analysis of Plaintiff’s subjective complaints. (See generally Doc. 20.) Plaintiff purports to reserve her right

to raise arguments on appeal regarding the remaining issues identified her 7 motion for summary judgment—including related to the nonsevere impairments, her obesity, and the 8 ALJ’s reliance upon vocational resources— and “incorporates her arguments into this objection.” 9 (Doc. 20 at 2.) However, the reservation of rights and incorporating prior arguments is insufficient to 10 invoke a de novo review of the issues by the district judge. 11 Objections to any findings and recommendations must be “specific.” Fed. R. Civ. P. 72(b)(2); 12 28 U.S.C. § 636(b)(1); see also *Lockert v. Faulkner*, 843 F.2d 1015, 1019 (7th Cir. 1988) (general 13 objections do not preserve arguments for appellate review and stating that “[a] district judge should not 14 have to guess what arguments an objecting party depends on when reviewing a magistrate judge’s 15 report”); *Kenneth V. v. O’Malley*, 2024 WL 5102879, at *3 (S.D. Cal. Aug. 26, 2024) (finding a 16 plaintiff did not properly make objections where the plaintiff “attempt[ed] to raise the same arguments 17 that were already raised ... for a second bite at the apple”); *Pete v. U.S. Dep’t of Treasury*, (E.D. Tex.

18 July 11, 2025) (“An objection that merely incorporates by reference or refers to the briefing before the

19 magistrate judge is not specific”). As the Ninth Circuit indicated, the Court “will not manufacture 20 arguments” for parties. *Greenwood v. FAA*, 28 F.3d 971, 977 (9th Cir. 1994). Nevertheless, the Court 21 performed a de novo review of the arguments related to the ALJ’s step two analysis, Plaintiff’s obesity, 22 and the ALJ’s reliance upon the vocational resources, including the vocational expert and the 23 Dictionary of Occupational Titles. The findings of the magistrate judge related to these issues 24 supported by the record and proper analysis. 25 B. Analysis of Plaintiff’s subjective statements 26 To evaluate a claimant’s statements regarding the severity of his symptoms, an ALJ must 27 determine first whether objective medical evidence shows an underlying impairment “which could 28 reasonably be expected to produce the pain or other symptoms alleged.” *Lingenfelter v. Astrue*, 504 1 F.3d 1028, 1035-36 (9th Cir. 2007) (quoting *Bunnell v. Sullivan*, 947 F.2d 341, 344 (9th Cir. 1991)). 2 Second, if there is no evidence of malingering, the ALJ must set forth clear and convincing reasons for 3 rejecting subjective complaints. *Id.* at 1036. An ALJ may consider many factors to assess a claimant’s 4 statements, including, for example: (1) the objective medical evidence, (2) the claimant’s reputation for 5 truthfulness, (3) inconsistencies in testimony or between testimony and conduct, (4) the claimant’s 6 daily activities, (5) an unexplained, or inadequately explained, failure to seek treatment or follow a 7 prescribed course of treatment, and (6) testimony from physicians about the nature, severity, and effect 8 of the symptoms of reported by a claimant. *Fair v. Bowen*, 885 F.2d 597, 603 (9th Cir. 1989); see also 9 *Thomas v. Barnhart*, 278 F.3d 947, 958-59 (9th Cir. 2002). It is undisputed that the ALJ considered 10 inconsistencies with Plaintiff’s statements and the medical records and Plaintiff’s level of activity in 11 evaluating the subjective statements. However, the parties dispute whether these constitute clear and 12 convincing reasons to support the rejection of Plaintiff’s subjective statements. 13 1. Objective medical evidence 14 In general, “conflicts between a

[claimant's] testimony of subjective complaints and the 15 objective medical evidence in the record" can be a clear and convincing reason to reject a claimant's 16 subjective testimony. *Morgan v. Comm'r of the Soc. Sec. Admin.*, 169 F.3d 595, 600 (9th Cir. 1999). 17 The Ninth Circuit explained, "[w]hile subjective pain testimony cannot be rejected on the sole ground 18 that it is not fully corroborated by objective medical evidence, the medical evidence is still a relevant 19 factor in determining the severity of the claimant's pain and its disabling effects." *Rollins v. 20 Massanari*, 261 F.3d 853, 857 (9th Cir. 2001); see also *Burch v. Barnhart*, 400 F.3d 676, 681 (9th Cir. 21 2005) ("although lack of medical evidence cannot form the sole basis for discounting pain testimony, it 22 is a factor that the ALJ can consider in his credibility analysis"). Because the ALJ did not base the 23 decision solely on the fact that the medical record did not support the degree of symptoms alleged by 24 Plaintiff, the objective medical evidence was a relevant factor in evaluating her subjective complaints. 25 However, if an ALJ cites the medical evidence, it is insufficient for the ALJ to make a general 26 finding that the record contradicts the testimony. *Holohan v. Massanari*, 246 F.3d 1195, 1208 (9th Cir. 27 2001). Instead, an ALJ must identify "what testimony is credible and what evidence undermines the 28 claimant's complaints." *Greger v. Barnhart*, 464 F.3d 968, 972 (9th Cir. 2006). Towards this end, 1 unless the ALJ links the claimant's testimony to the medical record summary, the summary is 2 insufficient to reject subjective statements. *Brown-Hunter*, 806 F.3d at 493; see also *Lambert*, 980 F.3d 3 at 1277 (finding the ALJ erred by "offering non-specific conclusions that Lambert's testimony was 4 inconsistent with her medical treatment"). In addition, district court may not review an ALJ's summary 5 of the record to itself establish a link between a claimant's testimony and the record. In *Brown-Hunter*, 6 the claimant argued the ALJ failed to provide clear and convincing reasons for rejecting her symptom 7 testimony. *Id.*, 806 F.3d at 491. The district court identified inconsistencies in the ALJ's summary of 8 the medical record that it opined gave rise to reasonable inferences about the plaintiff's credibility. *Id.* 9 On appeal, the Ninth Circuit determined the ALJ failed to identify the specific testimony she found not 10 credible and did not link that testimony to support the adverse credibility determination. *Id.* at 493. The 11 Court explained that even if the district court's analysis was sound, the analysis could not cure the 12 ALJ's failure. *Id.* at 494. 13 In contrast to *Brown-Hunter* and *Lambert*, the ALJ sufficiently carried the burden to link 14 Plaintiff's subjective statements to the record. For example, the ALJ found: "The claimant testified the 15 only benefit of her back surgery is being able to stand straighter, but this is generally inconsistent with 16 the evidence showing significant improvement, especially in pain." (Doc. 12-3 at 24-25, citations 17 omitted.) Likewise, the ALJ determined: "The claimant testified she would be unable to work because 18 of chronic pain in her back and knee. However, the medical evidence indicates the claimant's pain 19 improved greatly following back surgery and ... the claimant was very pleased with the result of her 20 left knee arthroplasty." (*Id.* at 26s, citation omitted.) Although the link between Plaintiff's statements 21 and the record may be minimal, the ALJ's analysis is sufficient to show the ALJ considered Plaintiff's 22 testimony while discussing

the medical record, and the ALJ carried the burden to identify evidence that 23 contradicted the testimony. Compare with *Holcomb v. Saul*, 832 Fed. App'x. 505, 506 (9th Cir. Dec. 24 28, 2020) (finding no link where “the ALJ never mentioned [the claimant’s] symptom testimony while 25 discussing the relevant medical evidence”). Plaintiff’s assertion of error on this ground is unavailing. 26 2. Plaintiff’s activities 27 A claimant’s level of activity may support an ALJ’s determination to give less weight to her 28 subjective statements. When a claimant spends a substantial part of the day “engaged in pursuits 1 involving the performance of physical functions that are transferable to a work setting, a specific 2 finding as to this fact may be sufficient to discredit a claimant’s allegations.” *Morgan v. Comm’r of the 3 Soc. Sec. Admin.*, 169 F.3d 595, 600 (9th Cir. 1999) (citing *Fair*, 885 F.2d at 603). In addition, the 4 Ninth Circuit determined that a claimant’s activities may be used to support an adverse credibility 5 determination where the capabilities contradict the severity of the symptoms reported. See, e.g., 6 *Valentine v. Comm’r of Soc. Sec. Admin.*, 574 F.3d 685, 693 (9th Cir. 2009); *Stubbs-Danielson v. 7 Astrue*, 539 F.3d 1169, 1175 (9th Cir. 2008). Thus, the Ninth Circuit determined a claimant’s level of 8 activity can form the basis for an ALJ to discount subjective statements where: (1) the activities 9 contradict a claimant’s testimony or (2) the level of activity “meet[s] the threshold for transferable 10 work skills.” *Orn v. Astrue*, 495 F.3d 625, 639 (9th Cir. 2007). 11 Importantly, the Ninth Circuit clearly indicated that there are “two grounds for using daily 12 activities to form the basis of an adverse credibility determination.” *Orn*, 495 F.3d at 693. When an 13 ALJ finds the claimant’s level of activities contradicts her testimony, the ALJ is not required to also 14 find that the level of activity is transferable to work. Rather, these are separate considerations. *Id.*; see 15 also *Stubbs-Danielson*, 539 F.3d at 1175 (“where ... activities suggest some difficulty functioning, they 16 may be grounds for discrediting the claimant’s testimony to the extent that they contradict claims of a 17 totally debilitating impairment); see also *Valentine*, 574 F.3d at 693 (finding the ALJ identified “a clear 18 and convincing reason to reject [the claimant’s] subjective testimony” where the level of activity 19 “contradicted [his] contentions about how debilitating his fatigue was”). As the magistrate judge 20 found, “the ALJ made a reasonable determination that Plaintiff’s daily activities, as reported in her 21 physical therapy and other post-surgical treatment records, were inconsistent with her hearing 22 testimony.” (Doc. 19 at 8.) Plaintiff’s objection that the ALJ was also required to find her activities 23 rose to the level of transferable to work (Doc. 20 at 6) is unsupported by established law. 24 3. Conclusion 25 The ALJ carried the burden to identify clear and convincing reasons to reject Plaintiff’s 26 subjective complaints and set forth findings “sufficiently specific to allow a reviewing court to 27 conclude the ALJ rejected the claimant’s testimony on permissible grounds.” *Moisa v. Barnhart*, 367 28 F.3d 882, 885 (9th Cir. 2004). 1 ||VI._ Order 2 According to 28 U.S.C. § 636(b)(1), the Court performed a de novo review of this case. 3 || Having carefully reviewed the entire matter—including Plaintiff’s objections and the Commissioner’s 4 || response thereto—the Court concludes the Findings and Recommendations are supported by the 5 record and proper analysis. Thus, the Court ORDERS: 6 1. The Findings and

Recommendations (Doc. 19) are ADOPTED in full. 7 2. Plaintiff's motion for summary judgment and request for remand (Doc. 13) are 8 DENIED. 9 3. Defendant's request to affirm the administrative decision (Doc. 17) is GRANTED. 10 4. The Clerk of Court is directed to terminate any pending motions; enter judgment in 11 favor of defendant Frank Bisignano, Commissioner of Social Security, and against 12 Plaintiff Sandy Valdez; and to close this case. 13 14 IS SO ORDERED. 15 || Dated: _ August 12, 2025 (LAW pA L. wan
16 TED STATES DISTRICT JUDGE
17 18 19 20 21 22 23 24 25 26 27 28 10