

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO

**Elizabeth Martínez-Valentín v. Frank J. Bisignano, Commissioner of
Social Security**

Martínez-Valentín · No. Civil No. 25-1184 (HRV); 3:25-cv-01184 · Decided March 16, 2026

OPINION

1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE DISTRICT OF PUERTO RICO 3
4 5 ELIZABETH MARTÍNEZ VALENTÍN, 6 Plaintiff, 7 CIVIL NO. 25-1184 (HRV) v. 8 9
FRANK J. BISIGNANO Commissioner of Social Security, 10 11 Defendant. 12 13 OPINION
AND ORDER1 14 Elizabeth Martínez-Valentín (hereinafter “Plaintiff” or “Ms. Martínez”) seeks
15 16 review of the final administrative decision of the Commissioner of Social Security (“the 17
Commissioner”) denying her claim for disability benefits under the Social Security Act 18 (“the
Act”).

The Commissioner filed his brief arguing that the decision should be affirmed 19 because it is
based on substantial evidence. The parties have consented to the entry of 20 judgment by a United
States Magistrate Judge under the provisions of 28 U.S.C. § 636(c). 21 22 After careful
consideration of the record, and for the reasons outlined below, the 23 Commissioner’s decision is
AFFIRMED.

24 25 26 1 Marielena Negrón-Rivera, a third-year law student at the University of Puerto Rico
School of Law, 27 provided significant assistance in the research and drafting of this Opinion and
Order. 28 1 1 I. LEGAL FRAMEWORK 2 A. Standard of Review 3 Pursuant to 42 U.S.C. §
405(g), any individual may obtain review of a final 4 decision of the Commissioner in which he or
she was a party.

Under said provision, the 5 Court is empowered “to enter, upon the pleadings and transcript of the
record, a 6 7 judgment affirming, modifying, or reversing the decision of the Commissioner [...]”
Id. 8 In addition, the statute provides that if supported by substantial evidence, the findings 9 of
the Commissioner as to any fact, shall be conclusive. Id. 10 A reviewing Court must uphold the
decision of the Commissioner if the 11 Administrative Law Judge (“ALJ”) applied the correct
legal principles, and the 12 13 determination is supported by substantial evidence.

Seavey v. Barnhart, 276 F.3d 1, 9 14 (1st Cir. 2001). The scope of my review is thus limited. I am
tasked with determining 15 whether the ALJ employed the proper legal standards and focused
facts upon the proper 16 quantum of evidence. See Ward v. Comm’r of Soc. Sec., 211 F.3d 652,
655 (1st Cir. 2000); 17 see also Manso-Pizarro v. Sec’y of Health and Human Servs., 76 F.3d 15,
16 (1st Cir.

18 19 1996). 20 To meet the evidentiary benchmark, more than a scintilla of evidence is required. 21 *Purdy v. Berryhill*, 887 F.3d 7, 13 (1st Cir. 2018). But the threshold for evidentiary 22 sufficiency is not particularly high; if after looking at the existing administrative record, 23 the reviewing court is persuaded that it contains sufficient evidence to support the 24 Commissioner’s factual determinations, the decision is bound to be upheld.

See *Biestek v. Berryhill*, 587 U.S. 97, 102-03 (2019) (cleaned up). Substantial evidence exists when 27 “a reasonable mind, reviewing the evidence in the record, could accept it as adequate to 28 2 1 support [the] conclusion.” *Irlanda-Ortiz v. Sec’y of Health & Human Servs.*, 955 F.2d 2 765, 769 (1st Cir. 1991).

The ALJ’s decision must be reversed, however, if it was arrived 3 at “by ignoring evidence, misapplying law, or judging matters entrusted to experts.” 4 *Nguyen v. Chater*, 172 F.3d 31, 35 (1st Cir. 1999). 5 B. The Five-Step Sequential Evaluation Process 6 7 To be eligible for social security benefits, a claimant must demonstrate that he or 8 she is “disabled” within the meaning of the Act.

Bowen v. Yuckert, 482 U.S. 137, 146, 9 (1987). The Act defines disability as the inability “to engage in any substantial gainful 10 activity by reason of any medically determinable physical or mental impairment which 11 has lasted or can be expected to last for a continuous period of not less than twelve 12 13 months.” 42 U.S.C. §§ 423(d)(1)(a) and 1382c(a)(3)(A). “Substantial gainful activity” 14 means work that is considered both substantial and gainful.

Peters v. Colvin, 133 F. Supp. 15 3d 273, 278-79 (D. Mass. 2015). Substantial work is defined as work that involves 16 significant physical or mental activity. *Id.* On the other hand, gainful work is “any work 17 done for profit, whether or not profit is realized”. *Id.* The impairment or impairments 18 19 must be severe enough that a claimant “is not only unable to do his [or her] previous 20 work but cannot... engage in any other kind of substantial gainful work which exists [in 21 significant numbers] in the national economy....” 42 U.S.C. § 423(d)(2), § 22 1382c(a)(3) (B); see also 20 C.F.R. § 404.1520(a)(1).

23 The Commissioner follows a five-step evaluation process to determine disability. 24 See *Mills v. Apfel*, 244 F.3d 1, 2 (1st Cir. 2001); 20 C.F.R. § 404.1520(a). These steps must 25 26 be followed in order, and if a person is determined not to be disabled at any step, the 27 inquiry stops. *Id.* The Plaintiff has the burden of proof at the first four steps of the process.

28 3 1 *Freeman v. Barnhart*, 274 F.3d 606, 608 (1st Cir. 2001); *Bowen v. Yuckert* 482 U.S. at 2 146. 3 Step one considers work activity, that is, whether the Plaintiff is currently “doing 4 substantial gainful activity.” 20 C.F.R. § 404.1520(a)(4)(i). If the person is, then she is 5 not disabled under the Act. *Id.* Step two asks whether Plaintiff has a physical or mental 6 7

impairment, or a combination of impairments, that is severe and meets the Act's 8 duration requirement.

20 C.F.R. § 404.1520(a)(4)(ii). Step three considers the medical 9 severity of the Plaintiff's impairments. 20 C.F.R. § 404.1520(a)(4)(iii). At this step, if 10 Plaintiff is determined to have an impairment that meets or equals an impairment listed 11 in 20 C.F.R. pt. 404, Subpt. P., app. 1, and meets the duration requirements, she is 12 13 disabled. 20 C.F.R. § 404.1520(a)(4)(iii).

On the other hand, if the Plaintiff is not found 14 to be disabled at this step, her Residual Functional Capacity ("RFC") is assessed. 20 C.F.R. 15 § 404.1520(a)(4), (e). 16 Once the ALJ determines the RFC, the inquiry proceeds to step four. Step four 17 compares Plaintiff's RFC to the one required in their past relevant work. 20 C.F.R. § 18 19 404.1520(a)(4)(iv).

If the Plaintiff can still do their past relevant work, he or she is not 20 disabled. *Id.* Finally, at step five, the Plaintiff's RFC is considered alongside her "age, 21 education, and work experience to see if [she] can make an adjustment to other work." 22 20 C.F.R. § 404.1520(a)(4)(v). If he or she can make an adjustment to other work, they 23 are not disabled; if they cannot, they are disabled.

Id. At this step, it is the Commissioner 24 who has the burden "to come forward with evidence of specific jobs in the national 25 26 economy that the applicant can still perform." *Freeman*, 274 F.3d at 608 (citing *Arocho 27 v. Sec'y of Health & Human. Servs.*, 670 F.2d 374, 375 (1st Cir. 1982)). 28 4 1 II. FACTUAL BACKGROUND AND PROCEDURAL HISTORY 2 Plaintiff applied for disability and disability insurance benefits on April 25, 2022, 3 alleging her disability began on March 13, 2020.

See Transcript of Social Security 4 Proceedings ("Tr"), Dkt No. 8, at 22. The claim was initially denied on September 6, 2022, 5 and upon reconsideration on December 7, 2022. *Id.* On January 17, 2023, Plaintiff 6 7 moved for a hearing, and on August 21, 2023, a video hearing was held presided by ALJ 8 Livia Morales. Ms. Martínez was represented by attorney Arlene Marie Diez-Ramírez.

9 (*Id.*). Impartial vocational expert Tania Schullo also testified at the hearing. (*Id.*). All 10 evidence was submitted by Ms. Martínez at least five (5) days prior to the hearing, and it 11 was admitted into evidence as part of the record. (*Id.*). I briefly summarize below the 12 13 ALJ's written decision dated November 28, 2023. 14 The ALJ determined at Step One of the five-step sequential process that Ms. 15 Martínez did not engage in substantial gainful activity since the alleged onset date, that 16 is, March 13, 2020.

(Tr. 24). At Step Two, the ALJ found that Plaintiff had the following 17 severe impairments: arthritis, lumbosacral spine disorder, inflammatory polyarthropy, 18 19 rheumatoid arthritis, major depressive disorder, and anxiety disorder. (*Id.*). 20 With respect to Step Three, the ALJ concluded that Ms. Martínez did not have 21 an impairment or combination of impairments that

met or medically equals the severity of one of the listed impairments in 20 C.F.R. Part 404, Subpart P, Appendix 1.

(Tr. 26). For this particular finding, the ALJ found that the record did not establish medical signs, symptoms, laboratory findings, or degree of functional limitation required to meet or equal the criteria. (Id.). She considered Plaintiff's alleged impairments under Listings 1.15, 1.16, 1.18, 14.09, but found that the medical evidence did not show the presence of an impairment-related physical limitation of musculoskeletal functioning that has lasted or is expected to last at least twelve (12) months, nor medical documentation showing the need of a walker, bilateral canes or crutches, or a wheeled and seated mobility device; an inability to use one upper extremity or both upper extremities to independently initiate, sustain, and complete work-related activities involving fine and gross movements.

(Tr. 26-28). With respect to Ms. Martínez's mental impairments, the ALJ determined that she did not meet or medically equaled the criteria in listings 12.02 and 12.06. In reaching this conclusion, the ALJ considered whether the Paragraph B criteria was satisfied.

To satisfy "Paragraph B" criteria, the mental impairment must result in one extreme limitation or two marked limitations in a broad area of functioning. (Id.). The ALJ assessed mild and moderate limitations in all relevant areas.

For example, as to understanding, remembering, or applying information, Plaintiff has a moderate limitation. (Tr. 28). With respect to the area of interacting with others, Ms. Martínez was found to have a mild limitation. (Id.). Regarding concentration deficits, the ALJ found no more than a moderate limitation. (Tr. 29.) And in the area of adapting and managing oneself, the ALJ determined that Ms. Martinez had a mild limitation.

(Id.). Because Plaintiff's mental impairments did not cause at least two marked limitations or one extreme limitation, Paragraph B criteria were not satisfied. (Id.). The ALJ likewise considered if Paragraph C criteria was satisfied, but the evidence on record fell short of establishing said criteria. (Id.). Next, and prior to moving to Step Four of the sequential process, the ALJ concluded that Plaintiff had an RFC to perform light work as defined in 20 CFR 404.1567(b) except she can: stand/walk four hours in an 8-hour day and frequently finger and handle with both upper extremities.

Id. extreme limitation, Paragraph B criteria were not satisfied. (Id.). The ALJ likewise considered if Paragraph C criteria was satisfied, but the evidence on record fell short of establishing said criteria. (Id.). Next, and prior to moving to Step Four of the sequential process, the ALJ concluded that Plaintiff had an RFC to perform light work as defined in 20 CFR 404.1567(b) except she can: stand/walk four hours in an 8-hour day and frequently finger and handle with both upper extremities.

She can climb ramps and stairs occasionally, climb ladders, ropes, or scaffolds never, balance frequently, stoop occasionally, crouch occasionally and crawl occasionally. She can perform

simple and routine tasks. 11 (Tr. 29).

The ALJ mentioned that in determining the RFC, she considered Plaintiff's 12 13 testimony regarding her symptoms and credited them to the extent they were consistent 14 with the objective medical evidence as well as medical opinions and prior administrative 15 medical findings as required by 20 C.F.R. 404.1529, 20 C.F.R. 404.1520c, and Social 16 Security Ruling ("SSR") 16-3p.

(Tr. 29-37). In analyzing how a claimant's symptoms 17 impact the RFC, a two-step process is prescribed by the regulations. First, the ALJ is 18 19 required to determine if the physical or mental impairments could reasonably be 20 expected to produce the pain and/or symptoms alleged.

Second, the intensity, 21 persistence, and limiting effects of said symptoms must be evaluated to determine the 22 extent to which they limit Plaintiff's work-related activities. The ALJ concluded after 23 thoroughly explaining her reasoning and weighing the relevant evidence on record that 24 Plaintiff's medically determinable impairments could reasonably be expected to cause 25 26 the alleged symptoms but that her statements concerning the intensity, persistence, and 27 limiting effects of said symptoms were not entirely consistent with the medical evidence 28 7 1 and other evidence in the record.

A more limiting RFC was thus not warranted according 2 to the ALJ. 3 Moving on to the last two steps of the framework, the ALJ found Ms. Martínez 4 was unable to perform any past relevant work (Step Four), but that considering her age, 5 education, work experience, and RFC, there were jobs existing in significant numbers in 6 7 the national economy that she could perform (Step Five), such as Mail Clerk, Office 8 Helper, and Sorter.

(Tr. 37-39). Accordingly, the ALJ held that Ms. Martínez was not 9 disabled under the Act. (Tr. 39). 10 On January 12, 2024, Plaintiff sought review of the ALJ's decision before the 11 Appeals Council. On January 29, 2024, the Appeals Council denied her request for 12 13 review.

On that date, the ALJ's decision became the Commissioner's final decision. (Tr. 14 1-8.) 15 On March 28, 2025, Ms. Martínez filed her social security complaint in this Court. 16 (Dkt Nos. 1 and 2). On March 31, 2025, this case was formally referred to the undersigned 17 magistrate judge for all further proceedings, including the entry of judgment. (Dkt No. 18 19 6).

On May 27, 2025, the social security transcript was filed. (Dkt No. 8). Plaintiff's social 20 security brief was filed on August 30, 2025 (Dkt No. 15), and the Commissioner's on 21 September 8, 2025. (Dkt No. 17). 22 III. DISCUSSION 23 Ms. Martínez argues that the ALJ erred in the determination of her RFC. She 24 specifically takes issue with the ALJ's application of legal standards in arriving at her 25 26 decision and claims that it is not supported by substantial evidence or analysis.

Plaintiff 27 first contends that the ALJ erred in her evaluation of treating specialist opinions, 28 8 1 particularly Dr. Carlos Pantojas. (Issue 1). She also posits that the RFC determination 2 was impacted by the ALJ's erroneous omission of mental limitations in the RFC. (Issue 3 2). Additionally, Plaintiff contends that the ALJ erred by basing her decision on a 4 defective vocational hypothetical.

(Issue 3). Lastly, Plaintiff submits that the ALJ erred 5 at Step Two by not including her fibromyalgia condition as a severe impairment. (Issue 6 7 4). 8 The Commissioner responds that substantial evidence supports the RFC 9 assessment. According to the Commissioner, there were no treating source opinions for 10 the ALJ to evaluate and, therefore, Ms. Martínez is faulting the ALJ for "failing to 11 evaluate evidence that does not exist." (Dkt.

No. 17 at p.4). Furthermore, the 12 13 Commissioner asserts that the ALJ properly addressed mental limitations in 14 determining Plaintiff's RFC and that her fibromyalgia condition was not a medically 15 determinable impairment based on the evidence on record.

The Commissioner 16 emphasizes that Plaintiff's arguments are a request to reweigh the evidence, something 17 that a reviewing court is not supposed to do. 18 19 A. Issue 1: Evaluation of Dr. Pantojas' Medical Opinion 20 As noted, Plaintiff argues that the ALJ committed reversible error by failing to 21 properly evaluate the medical opinion of rheumatologist, Dr. Carlos Pantojas.

According 22 to Plaintiff, the ALJ discarded said opinion without applying the proper supportability 23 and consistency analysis. Ms. Martínez specifically challenges the decision of the ALJ to 24 discard Dr. Pantojas' "medical opinion" on grounds that the specific findings were not 25 26 fully legible except for the following terms: Heberden's nodes, painful range of motion of 27 the joints, lumbar tenderness, knee crepitus, and right positive straight leg raising test.

28 9 1 According to Plaintiff, there was "plenty legible" in the records to support Dr. Pantojas' 2 opinions and findings. Ms. Martínez also objects to the conclusion that Dr. Mercado 3 Santiago and Dr. Carlos Pantojas failed to support allegations of disabling pain and that 4 there were significant temporal gaps between treatment received. (Dkt. No.15, at p.16).

5 Plaintiff further claims that the ALJ erred in not weighing the findings of Heberden's 6 7 nodes, diminished grip and pinch strength, and chronically elevated inflammatory 8 markers, against contrary evidence and to clearly explain why said findings lacked merit. 9 (Dkt. No.15 at p.17). 10 The Commissioner ripostes that Dr. Pantojas did not provide a "medical opinion." 11 Accordingly, there can be no error in analyzing the persuasiveness of a non-existent 12 13 medical opinion.

Even assuming for the sake of argument that Dr. Pantojas would have 14 recommended more disabling restrictions if he had been called upon to provide an 15 opinion, the Commissioner maintains that the ALJ would have been completely justified 16 in finding such opinion unpersuasive. I agree. 17 When considering medical opinions, an ALJ need not "defer or give any

specific 18 19 evidentiary weight, including controlling weight, to any medical opinion(s) or prior 20 administrative medical finding(s), including those from [a claimant's] medical sources.” 21 20 C.F.R. § 404.1520c(a).

Rather, to determine the persuasiveness of a medical opinion, 22 an ALJ considers five factors: supportability, consistency with other medical sources, 23 relationship with the claimant, specialization, and “[o]ther factors.” Id. § 404.1520c(c). 24 The most important of these factors are supportability and consistency and the ALJ is 25 26 only required to articulate how she considered these two factors in her decision.

Id. § 27 404.1520c(b)(2); see also *Albro v. O'Malley*, 740 F. Supp. 3d 26, 37 (D. Mass. 2024); 28 10 1 *Cross v. O'Malley*, 89 F.4th 1211, 1215 (9th Cir. 2024) (“The 2017 regulations require an 2 ALJ to discuss the supportability and consistency of medical evidence—the factors the 3 agency has historically found to be the most important in evaluating medical opinion..

4..”). It has been clarified that “the ALJ must still ‘articulate how [he or she] considered 5 the medical opinions’ and ‘how persuasive [he or she] find[s] all of the medical 6 7 opinions’”) (alterations in original) (quoting 20 C.F.R. § 416.920c(a), (b)(1)).” *Russ v. 8 Comm’r of Soc. Sec.*, 582 F. Supp. 3d 151, 161 (S.D.N.Y. 2022). 9 A medical opinion will be considered supportable when the objective evidence and 10 supportive explanations are relevant to support the professional’s opinion.

20 C.F.R. § 11 404.1520c(1). “The more relevant objective medical evidence and supporting 12 13 evidence presented by a medical source to support his or her medical opinion(s)... the 14 more persuasive the medical opinion(s)... will be.” 20 C.F.R. § 404.1520c(c)(1) 15 (emphasis added).

On the other hand, a medical opinion will be considered consistent 16 when other medical sources and evidence support said opinion, making it more 17 persuasive. See 20 C.F.R. § 404.1520c(2); see also *Delgadillo v. Comm’r of SSA*, 641 F. 18 19 Supp. 3d 663, 669 (D. Ariz. 2022). 20 A review of the analysis carried out by the ALJ concerning the findings of Dr. 21 Pantojas demonstrates that it meets supportability and consistency standards.

The ALJ 22 thoroughly discussed and compared Dr. Pantojas’ findings to other medical opinions and 23 evidence in the record. The ALJ specifically wrote: 24 I took into consideration the findings of Dr. Pantojas. Dr. 25 Pantojas diagnosed the claimant with inflammatory 26 polyarthropathy (M06.4), erosive arthritis (M15.4), and fibromyalgia (M79.7) (Ex. 23F at 1).

In his treatment notes, 27 the rheumatologist reported abnormal musculoskeletal, 28 11 1 joints, and spine examinations. However, the specific findings are not fully legible, except for Heberden’s nodes, painful 2 range of motion of the joints, lumbar tenderness, knee crepitus, and right positive straight leg raising test (Ex. 1F at 3 32 and 40, 7F at 12, and 23F at 4 and 21).

The positive straight 4 leg raising test, as documented by Dr. Pantojas, confirms my conclusion that the claimant can stand/walk 4 hours in an 8- 5 hour workday. Once again, the Heberden's nodes support manipulative limitations indicated previously. 6 7 *** Meanwhile, more recently, Dr. Pantojas prescribed, for the 8 claimant's pain symptoms, Cymbalta 60 mg, Folic Acid 1 mg, Neurontin 800 mg, Methotrexate Sodium 2.5 mg (5 tabs once 9 a week), and Diclofenac Sodium 75 mg (Ex.

23F at 1-2). Based 10 on the above, it is reasonable to find that the treatment received had been essentially conservative with only few 11 changes in medications and dosages. 12 *** 13 The claimant's treatment history with Dr. Mercado Santiago and Dr. Pantojas fails to support her allegations of disabling 14 pain.

For instance, there is evidence of significant gaps in treatment with the primary care physician. From July 24, 15 2020 to April 30, 2021, there are nine months without 16 treatment (Ex. 12F at 3-7). Another gap is from September 23, 2021 to March 2, 2022 (5 months without treatment) (Ex. 12F 17 at 13-17).

In terms of Dr. Pantojas's treatment, there is a significant gap from July 17, 2020 to August 13, 2021 (one 18 year without treatment) (Ex. 1F at 13 and 22). 19 (Tr. 32-33) (emphasis added). 20 The foregoing shows that the ALJ fully articulated why she would have found 21 unpersuasive any opinion attributable to Dr. Pantojas for a more limiting RFC.

In other 22 23 words, any such opinion would have been unsupported and inconsistent with other 24 medical sources. In sum, it is incorrect to state that the ALJ did not comply with 20 C.F.R. 25 § 404.1527(c) or §404.1520c standards of supportability and consistency when analyzing 26 27 28 12 1 Dr. Pantojas's medical opinions. At bottom, Plaintiff simply disagrees with the weight 2 she believes the findings of Dr. Pantojas should have received.

There was no error. 3 B. Issue 2: Omission of Mental Limitations 4 Plaintiff argues that the ALJ erred because she did not correctly analyze her 5 mental limitations. (Dkt. No.15 at p.18). She emphasizes that even when one impairment 6 7 by itself may not be considered to significantly limit an individual, the ALJ is required to 8 analyze all the impairments in reaching her decision and different non-severe 9 impairments may impose critical limitations when considered all together.

(Id.). Plaintiff 10 specifically claims that the ALJ "failed to include any restrictions for deficits in 11 concentration, persistence, or pace, despite consultative expert Dr. Sarazu's findings of 12 13 impaired judgment and poor concentration." (Dkt. No.15 at p.19). Plaintiff cites Social 14 Security Ruling 96-8p ("SSR 96-8p") in support of her position. 15 The Commissioner opposes contending that the argument fails because it 16 misrepresents the ALJ's decision.

The ALJ did discuss the issue of concentration deficits 17 and acknowledged the findings of Dr. Sarazu and Dr. Beauchamp but found that they 18 19 conflicted with other evidence in the record establishing that assessing no more than a 20 moderate limitation in the area of concentration, persistence, and pace was warranted. 21 The RFC reflects such limitation by restricting Plaintiff to simple and routine tasks.

22 Plaintiff is correct that ALJs must consider the combined effects of severe and 23 non-severe impairments. Social Security Ruling 96-8p provides that 24 In assessing RFC, the adjudicator must consider limitations 25 and restrictions imposed by all of an individual's impairments, 26 even those that are not "severe." While a "not severe" impairment(s) standing alone may not significantly limit an 27 individual's ability to do basic work activities, it may—when 28 13 1 considered with limitations or restrictions due to other impairments—be critical to the outcome of a claim." 2 3 SSR 96-8p, 1996 SSR LEXIS 5, 1996 WL 374184, at *5 (July 2, 1996).

Additionally, Social 4 Security Administration regulations and case law require the ALJ to consider the 5 combined effect of all the claimant's impairments at each step of the sequential 6 evaluation process. See *McDonald v. Sec'y of Health Hum. Servs.*, 795 F.2d 1118, 1124- 7 25 (1st Cir. 1986); 20 C.F.R. § 404.1520(g).

The RFC assessment must "contain a 8 thorough discussion and analysis of the objective medical and other evidence...." SSR 9 10 96-8p, 1996 SSR LEXIS 5, *19, 1996 WL 374184, at *7 (July 2, 1996). 11 I find that the ALJ properly considered evidence regarding the mental limitations 12 claimed by Ms. Martínez and her assessment of a moderate limitations in concentrating, 13 persisting, and maintaining pace is defensible and supported by substantial evidence.

In 14 her analysis, the ALJ found discrepancies in the medical evidence, which were 15 16 thoroughly outlined in her decision. For instance, the ALJ noted that Dr. Beauchamp's 17 notes and analysis of Plaintiff's mental impairments, as well as Dr. Valentin Flores and 18 Dr. Sarazu's, were taken into consideration. (Tr. 34-35).

The ALJ also discussed the 19 attention deficit claims, as well as the depressive and anxiety disorders claims. *Id.* 20 Specifically, the ALJ concluded Plaintiff can only perform simple and routine tasks 21 because of her "diminished memory and concentration deficits." (Tr. 36). Nothing more 22 23 was required and Plaintiff has not met her burden to show reversible error.

24 C. Issue 3: Defective Vocational Hypothetical 25 Plaintiff also claims that the hypothetical question posed to the vocational expert 26 "omitted key manipulative and environmental restrictions supported by the medical 27 28 14 1 evidence, as well as any allowance for off-task time." (Dkt. No.15 at p.20).

Therefore, she 2 says that the ALJ's Step Five determination is not supported. (*Id.*). The Commissioner 3 notes that this argument is derivative of the challenge Plaintiff made to the RFC

4 assessment. The Commissioner insists in his position that the RFC assessment is 5 supported by substantial evidence.

Accordingly, the ALJ was not required to present a 6 7 hypothetical question that included limitations she found unpersuasive. 8 The law is that an ALJ is required to express a claimant's impairments in terms of 9 work-related functions or mental activities, and a VE's testimony is relevant to the 10 inquiry insofar as the hypothetical questions posed by the ALJ to the VE accurately 11 reflect the claimant's functional work capacity.

Arocho v. Sec'y of Health and Human 12 13 Services, 670 F.2d at 375. Put differently, a VE's testimony must be predicated on a 14 supportable RFC assessment. See 20 C.F.R. § 404.1520(g) (1). In my discussion above, I 15 have already found that the RFC assessment was supported by substantial evidence. I 16 must therefore reject any claim of error at Step Five that raises the issue of a faulty 17 hypothetical question to the VE based on said RFC assessment.

See *Bowden v. Colvin*, 18 19 No. 13-cv-201-GZS, 2014 WL 1664961, at *4 (D. Me. Apr. 25, 2014) ("I have rejected 20 [plaintiff's] arguments about the RFC, so this corollary argument regarding the 21 hypothetical question must fail as well."). 22 Issue 4: Step Two Rejection of Fibromyalgia 23 The fourth and final issue raised by the Plaintiff is that the ALJ ignored the clinical 24 criteria and failed to consider the cumulative effects of fibromyalgia as part of the RFC 25 26 assessment.

The claim is that, because the ALJ dismissed the diagnosis as not well 27 supported, clinical criteria were ignored and therefore the cumulative effects of 28 15 1 fibromyalgia were not considered. (Dkt. No.15 at p. 21) As such, Plaintiff contends that a 2 remand is required to reassess fibromyalgia as a severe impairment and in conjunction 3 with the other impairments she was found to have.

(Id.). The Commissioner responds 4 that the alleged diagnosis was not a medically determinable impairment because it was 5 not done in accordance with SSR 12-2P which requires, among other things, overtime 6 7 assessment of the symptoms and ruling out other disorders or conditions for said 8 symptoms. (Dkt. No. 17 at p. 7). 9 Plaintiff bears the burden of showing that her fibromyalgia is a medically 10 determinable impairment.

Vazquez-Reinat v. Comm'r of Soc. Sec., No. CV 19-1822, 2021 11 U.S. Dist. LEXIS 142175, 2021 WL 3214392, at *7 (D.P.R. July 29, 2021). "Fibromyalgia 12 13 is defined as a syndrome of chronic pain of musculoskeletal origin but uncertain cause." 14 Id. (quoting *Rodríguez v. Comm'r of Soc. Sec.*, 2021 U.S. Dist. LEXIS 70631, at *9 (D.P.R. 15 Mar. 31, 2021)). It is a condition which "'causes severe musculoskeletal pain which is 16 accompanied by stiffness and fatigue due to sleep disturbances' and '[u]nlike other 17 medical conditions,... is not amenable to objective

diagnosis and standard clinical tests 18 19 are ‘not highly relevant’ in diagnosing or assessing fibromyalgia or its severity.’” *Small v. 20 Astrue*, 840 F. Supp. 2d 458, 464 (D.

Mass. 2012) (quoting *Preston v. Sec’y of Health & 21 Human Servs.*, 854 F.2d 815, 817, 820 (6th Cir. 1988)). The Commissioner has 22 promulgated rules regarding the analysis of fibromyalgia claims. See SSR 12-2p, 2012 23 SSR LEXIS 1, 2012 WL 3104869.

The diagnostic criteria for the condition is set forth in 24 the relevant SSR as follows: 25 26 Widespread pain and other symptoms associated with FM, such as fatigue, may result in exertional limitations that 27 prevent a person from doing the full range of unskilled work 28 16 1 in one or more of the exertional categories.... People with FM may also have nonexertional physical or mental 2 limitations because of their pain or other symptoms.

Some may have environmental restrictions, which are also 3 nonexertional. 4 SSR 12-2p at VI(E) (1), 2012 SSR LEXIS 1, 2012 WL 3104869, at *6. Further, SSR 12-2p 5 lays out the general criteria to establish that a claimant has the medically determinable 6 7 impairment of fibromyalgia: 8 We will find that a person has a [medically determinable impairment] of [fibromyalgia] if the physician diagnosed 9 [fibromyalgia] and provides the evidence we describe in 10 section II.A. [the 1990 American College of Rheumatology (“ACR”) Criteria for the Classification of Fibromyalgia [(the 11 “1990 Criteria”)] or section II.

B. [the 2010 ACR Preliminary Diagnostic Criteria [(the “2010 Criteria”)], and the 12 physician’s diagnosis is not inconsistent with the 13 other evidence in the person’s case record. 14 SSR 12-2p, 2012 SSR LEXIS 1, 2012 WL 3104869, at *2 (emphasis added). 15 In this case, the ALJ concluded that while Dr. Pantojas diagnosed Ms. Martínez 16 with fibromyalgia, he did not follow the 1990 Criteria nor the 2010 Criteria.

(Tr. 26). 17 While there was evidence of “pain and some trigger points” (Id.), Dr. Pantojas did not 18 19 document the rest of the requirements and, critically, did not rule out other impairments 20 as the possible causes of the symptoms. I find no error in this assessment because as the 21 Commissioner points out, the record shows that Dr. Pantojas made the diagnosis after 22 an initial visit while at the same time diagnosing Plaintiff with osteoarthritis.

(Tr. 1156- 23 57). And other evidence in the medical record such as notes from the primary care 24 physician Dr. Mercado Santiago, and the consulting rheumatologist, Dr. Babilonia, 25 26 attributed the pain and other symptoms to conditions such as rheumatoid arthritis, 27 osteopenia, and spinal stenosis rather than fibromyalgia. (Tr. 280, 284, 661, and 1258).

28 17 1 Thus, not only did Dr. Pantojas fail to sufficiently document the fibromyalgia diagnosis 2 under the relevant ACR criteria, said diagnosis was inconsistent with other evidence on 3 record as it failed to exclude other possible causes. *James D. P. v. Saul*, No. 18-cv-00250- 4 JHR, 2019 WL 4784601, 2019 U.S. Dist. LEXIS 168044, at *11 (D. Me. Sep. 30, 2019) 5 (affirming ALJ’s

decision to find that fibromyalgia was not a medically determinable 6 7 impairment, among other things, because physician “did not discuss whether he had 8 reached a firm diagnosis of fibromyalgia based on the exclusion of other possible 9 causes.”); see also *Bergeron v. Colvin*, No. 15-467M, 2016 U.S. Dist.

LEXIS 127555, at 10 *39-40 (D.R.I. Aug. 19, 2016) (“Dr. Mourad’s treating notes are devoid of any suggestion 11 that he tried to rule out other disorders, or that he ordered any laboratory tests or 12 13 imaging” before diagnosing claimant with fibromyalgia based on her subjective 14 complaints of pain.). A remand is not warranted on this issue either. 15 IV.

CONCLUSION 16 In view of the above, I find that the ALJ’s decision that Plaintiff is not disabled 17 within the meaning of the Social Security Act is supported by substantial evidence. For 18 19 that reason, the decision of the Commissioner is hereby AFFIRMED. 20 IT IS SO ORDERED. 21 In San Juan, Puerto Rico this 16th day of March 2026. 22 S/Héctor L. Ramos-Vega 23 HÉCTOR L. RAMOS-VEGA UNITED STATES MAGISTRATE JUDGE 24 25 26 27 28 18