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U.S. COURT OF APPEALS

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CONSTANCE V. MELKONIAN, disabled child/adult, Plaintiff - Appellant, v. MICHAEL J. ASTRUE, Commissioner of Social Security Administration and UNITED STATES OF AMERICA, Defendants - Appellees.	No. 09-55789 D.C. No. 3:06-cv-02081-JLS-BLM MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Janis L. Sammartino, District Judge, Presiding

Submitted February 15, 2011**

Before: CANBY, FERNANDEZ, and M. SMITH, Circuit Judges.

Constance V. Melkonian appeals pro se from the district court's judgment in her action challenging the Social Security Commissioner's decision to terminate

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

her supplemental security income ("SSI") benefits. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Lewis v. Astrue*, 498 F.3d 909, 911 (9th Cir. 2007) (order upholding the Commissioner's denial of benefits); *Knievel v. ESPN*, 393 F.3d 1068, 1072 (9th Cir. 2005) (dismissal for failure to state a claim); *Kildare v. Saenz*, 325 F.3d 1078, 1082 (9th Cir. 2003) (dismissal for lack of subject matter jurisdiction). We may affirm on any ground supported by the record. *Johnson v. Riverside Healthcare Sys., LP*, 534 F.3d 1116, 1121 (9th Cir. 2008). We affirm.

The district court properly determined that substantial evidence supported the Commissioner's decision that Melkonian was no longer eligible for SSI benefits under child or adult disability standards because her conditions had medically improved and did not prevent her from working. *See Warre v. Comm'r of Soc. Sec. Admin.*, 439 F.3d 1001, 1006 (9th Cir. 2006) (affirming decision to terminate child's SSI benefits because substantial evidence supported that child was no longer "disabled" due to medical improvement); *Matthews v. Shalala*, 10 F.3d 678, 680 (9th Cir. 1993) (claimant's ability to attend school supported that his impairments did not prevent him from performing all work).

The district court properly dismissed Melkonian's remaining claims for lack of subject matter jurisdiction and failure to state a claim. *See Kildare*, 325 F.3d at 1084 (mandamus relief is "extraordinary remedy" available only under limited

circumstances); *Hooker v. U.S. Dep't of Health & Human Servs*., 858 F.2d 525, 530 (9th Cir. 1988) (Social Security Act bars both Federal Tort Claims Act and *Bivens* claims for alleged unconstitutional conduct resulting in termination of benefits).

Melkonian's remaining contentions are unpersuasive.

We deny the Commissioner's motion to strike and Melkonian's request for sanctions.

AFFIRMED.