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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MICHELLE A. GILL,

Plaintiff - Appellant,

v.

MICHAEL J. ASTRUE, Commissioner of
Social Security,

Defendant - Appellee.

No. 12-55344

D.C. No. 3:10-cv-02309-DMS-
NLS

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Dana M. Sabraw, District Judge, Presiding

Submitted January 22, 2013**
San Francisco, California

Before: HUG, FARRIS, and LEAVY, Circuit Judges.

Michelle A. Gill appeals the district court's judgment affirming the
Commissioner of Social Security's denial of her application for disability

* 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).

insurance benefits under Title II of the Social Security Act. We have jurisdiction under 28 U.S.C. §1291. We review de novo, *Molina v. Astrue*, 674 F.3d 1104, 1110 (9th Cir. 2012), and we affirm.

The administrative law judge (“ALJ”) provided “specific, clear, and convincing reasons” for rejecting Gill’s testimony about the severity of her pain and the extent of her limitations. *Molina*, 674 F.3d at 1113. In particular, the ALJ relied on Gill’s failure to pursue aggressive treatment for her pain, her daily activities, and the observations of examining physicians. *See id.* (explaining that “the ALJ may discredit a claimant’s testimony when the claimant reports participation in everyday activities indicating capacities that are transferable to a work setting”); *Smolen v. Chater*, 80 F.3d 1273, 1284 (9th Cir. 1996) (noting that, in evaluating credibility, the ALJ may consider the “observations of treating and examining physicians” and any “inadequately explained failure to seek treatment”).

The ALJ erred in disregarding Kerry Kevil’s lay witness testimony without comment. *Molina*, 674 F.3d at 1114. That error was harmless, however, because Kevil’s testimony “described the same limitations as [Gill’s] own testimony, and the ALJ’s reasons for rejecting [Gill’s] testimony apply with equal force to the lay testimony.” *Id.* at 1122.

AFFIRMED.