

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 14 2019

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

GEORGE KARPINSKI,

Plaintiff-Appellant,

v.

NANCY A. BERRYHILL, Acting
Commissioner, Social Security
Administration,

Defendant-Appellee.

No. 17-36041

D.C. No. 2:17-cv-00325-JRC

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
J. Richard Creatura, Magistrate Judge, Presiding

Submitted March 12, 2019**

Before: LEAVY, TALLMAN, and R. NELSON, Circuit Judges.

George Karpinski appeals the district court's affirmance of the Commissioner of Social Security's denial of his application for disability insurance benefits under Title II of the Social Security Act. We have jurisdiction under 28

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

U.S.C. § 1291 and 42 U.S.C. § 405(g). We review the district court's denial de novo and can reverse the ALJ's decision only if her "findings are based on legal error or are not supported by substantial evidence in the record." *Attmore v. Colvin*, 827 F.3d 872, 875 (9th Cir. 2016). We affirm.

The ALJ applied the requisite two-step framework and cited specific, clear, and convincing reasons for discounting Karpinski's testimony regarding his physical impairments. See *Trevizo v. Berryhill*, 871 F.3d 664, 678 (9th Cir. 2017). The ALJ reasonably relied on inconsistencies in Karpinski's statements, evidence that Karpinski's conditions were well controlled with medication, and a lack of corroborating medical evidence. See *Molina v. Astrue*, 674 F.3d 1104, 1112 (9th Cir. 2012); *Warre v. Comm'r Soc. Sec. Admin.*, 439 F.3d 1001, 1006 (9th Cir. 2006); *Burch v. Barnhart*, 400 F.3d 676, 681 (9th Cir. 2005). While Karpinski propounds an alternative interpretation of the medical evidence, the ALJ's interpretation is supported by substantial evidence. See *Orn v. Astrue*, 495 F.3d 625, 630 (9th Cir. 2007)

The ALJ gave specific and legitimate reasons for assigning little weight to treating physician Dr. Braun's opinion that Karpinski's "anxiety/depression, diabetes and rheumatoid arthritis" preclude Karpinski from working "for the foreseeable future." The ALJ reasonably discounted the opinion because Dr. Braun did not cite any objective signs, indicate which medical evidence he relied upon, or

detail the limiting effect of Karpinski's conditions. *See Bayliss v. Barnhart*, 427 F.3d 1211, 1216 (9th Cir. 2005). Contrary to Karpinski's assertion, Dr. Braun's treatment notes do not contain any basis for his opinion that Karpinski will be completely disabled for the foreseeable future and, thus, do not rectify the conclusory nature of his opinion. Karpinski also asserts that the ALJ had a duty to recontact Dr. Braun. However, the duty to recontact applies where a physician's report is ambiguous or insufficient for the ALJ to make a disability determination. *Bayliss*, 427 F.3d at 1217. An ALJ has no duty to recontact where, as here, she finds the evidence adequate to make a determination. *Id.* The ALJ's finding that the evidence was adequate to make a determination is supported by the record. *See id.*

The ALJ also reasonably rejected Dr. Braun's opinion because the record indicated that Karpinski's rheumatoid arthritis and diabetes were controlled with medication. *See Orn*, 495 F.3d at 631 (citing 20 C.F.R. § 404.1527(d)(3)-(6)).

Because the ALJ provided specific and legitimate reasons for assigning little weight to Dr. Braun's opinion, any error in the ALJ's additional reasoning was harmless. *See Molina*, 674 F.3d at 1115.

The ALJ provided specific, legitimate grounds supported by the record for assigning little weight to the opinion of Dr. Magdaleno. The ALJ reasonably took into account Dr. Magdaleno's opinion that Karpinski's limitations would last eight

months, short of the twelve months necessary to establish eligibility for disability benefits. *See* 42 U.S.C. § 423(d)(1)(a). The ALJ also reasonably accorded Dr. Magdaleno's opinion less weight because she found that Karpinski's condition improved after the opinion was rendered.

AFFIRMED.