

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 24 2023

FOR THE NINTH CIRCUIT

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

JAMES HANSEN,

Plaintiff-Appellant,

v.

KILOLO KIJAKAZI, Acting Commissioner  
of Social Security,

Defendant-Appellee.

No. 22-35793

D.C. No. 3:21-cv-00577-MC

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Oregon  
Michael J. McShane, District Judge, Presiding

Submitted August 22, 2023\*\*  
Portland, Oregon

Before: BENNETT, VANDYKE, and H.A. THOMAS, Circuit Judges.

James Hansen appeals the district court’s order affirming the denial of disability insurance benefits and supplemental security income. “We review a district court’s judgment upholding the denial of social security benefits de novo”

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\* 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).

and “set aside a denial of benefits only if it is not supported by substantial evidence or is based on legal error.” *Bray v. Comm’r of Soc. Sec. Admin.*, 554 F.3d 1219, 1222 (9th Cir. 2009) (internal quotation mark and citation omitted).

To establish a disability for purposes of the Social Security Act, a claimant must prove that she is unable “to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment ... which has lasted or can be expected to last for a continuous period of not less than 12 months.” 42 U.S.C. §§ 423(d)(1)(A), 1382c(a)(3)(A). “In order to determine whether a claimant meets this definition, the ALJ employs a five-step sequential evaluation.” *Molina v. Astrue*, 674 F.3d 1104, 1110 (9th Cir. 2012), *superseded on other grounds by* 20 C.F.R. § 404.1502(a).

Here, the ALJ determined at step five that Hansen was not disabled before February 23, 2019, because he could perform work in the national economy. In reaching this conclusion, the ALJ found that Hansen had the residual functional capacity (RFC) to perform simple, routine, and repetitive tasks that have a reasoning level of one or two. This finding was supported by substantial evidence.

This case involves psychological opinions from three doctors: one examining psychologist and two state-agency reviewing consultants. After reviewing each of their opinions and the rest of the record, the ALJ afforded “significant weight” to the examining doctor’s opinion and “great weight” to the state-agency doctors’

opinions. Hansen does not challenge the ALJ's conclusion regarding the examining doctor, but rather argues that the ALJ failed to provide legally sufficient reasons to reject the state-agency doctors' conclusions.

But the ALJ did not reject the state-agency doctors' conclusions, which the ALJ rationally interpreted as supporting an RFC of performing simple, routine, and repetitive tasks that have a reasoning level of one or two. *See Woods v. Kijakazi*, 32 F.4th 785, 788 (9th Cir. 2022) ("Where evidence is susceptible to more than one rational interpretation, it is the ALJ's conclusion that must be upheld." (quoting *Burch v. Barnhart*, 400 F.3d 676, 679 (9th Cir. 2005))). Both state-agency doctors concluded, for example, that Hansen could occasionally "perform more complex/detailed tasks" than one to two step tasks. The ALJ's interpretation of the state-agency doctors' conclusions is consistent with the remainder of the medical record, which showed that Hansen had several mental status examinations that were largely normal and did not contain any specific functional limitations. The examining doctor's psychological evaluation revealed that Hansen has average auditory attention and motor processing speed, and can repeat strings of digits forwards and backwards, "revealing adequate attention for simple tasks." And the examining psychologist did not diagnose him with any cognitive deficits after completing a formal IQ test. In addition, Hansen's work history after his alleged onset and three medical opinions show that Hansen has no more than a moderate

limitation in his ability to understand, remember, concentrate, and persist. Substantial evidence thus supports the ALJ's RFC finding. *See Woods*, 32 F.4th at 788.

*Rounds v. Commissioner Social Security Administration*, 807 F.3d 996 (9th Cir. 2015), and *Leach v. Kijakazi*, 70 F.4th 1251 (9th Cir. 2023), do not require us to reach a different conclusion. Those cases involved a conflict between the ALJ's RFC as articulated by the ALJ and what the ALJ told the vocational expert, and a conflict between the ALJ's RFC and the vocational expert's testimony. Here, there is no claim that what the ALJ told the vocational expert was materially different than the RFC as described by the ALJ, or that the ALJ's RFC conflicted with the vocational expert's testimony. Instead, this case involves the more garden-variety claim that the ALJ's RFC itself is incorrect—e.g., is unsupported by the record. As explained, the RFC is supported by substantial evidence.

Accordingly, the district court's order is

**AFFIRMED.**