

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 9 2024

FOR THE NINTH CIRCUIT

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

ADRIENNE M. COLLINS,

Plaintiff-Appellant,

v.

CAROLYN W. COLVIN*, Acting
Commissioner of Social Security,

Defendant-Appellee.

No. 23-35526

D.C. No. 2:22-cv-00197-RMP

MEMORANDUM**

Appeal from the United States District Court
for the Eastern District of Washington
Rosanna Malouf Peterson, District Judge, Presiding

Argued and Submitted November 22, 2024
Seattle, Washington

Before: GOULD, LEE, and H.A. THOMAS, Circuit Judges.
Partial Concurrence and Partial Dissent by Judge H.A. Thomas.

Adrienne Collins appeals the district court's order affirming the
Commissioner of Social Security's denial of her application for disability benefits.

* Carolyn W. Colvin is substituted for her predecessor Martin O'Malley, Commissioner of the Social Security Administration, as Acting Commissioner of the Social Security Administration, pursuant to Federal Rule of Appellate Procedure 43(c).

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

Our jurisdiction arises under 28 U.S.C. § 1291. We review the district court’s order de novo and only reverse a decision to deny benefits when the ALJ’s decision reflects legal error or lacks support from substantial evidence in the record. *Revels v. Berryhill*, 874 F.3d 648, 653-54 (9th Cir. 2017). Substantial evidence requires only such evidence “as a reasonable mind might accept as adequate.” *Biestek v. Berryhill*, 587 U.S. 97, 103 (2019) (internal quotes and citations omitted). We affirm.

As the parties know the facts, we do not recount them in detail.

1. Collins first argues the ALJ erred by finding Dr. Yun’s medical opinion unpersuasive. A medical opinion’s persuasiveness depends primarily on (1) how well the opinion supports its conclusions with objective medical evidence and (2) the opinion’s consistency with other medical and non-medical evidence. 20 C.F.R. § 416.920c(b)(2). Here, the ALJ erroneously concluded Dr. Yun’s opinion lacked support from objective medical evidence. Nonetheless, contrary to Collins’ argument, substantial evidence still supports the ALJ’s overall persuasiveness determination because a reasonable mind may find Dr. Yun’s medical opinion unpersuasive given the opinion’s inconsistency with the broader medical record.

The ALJ erred by concluding that the mental status exam and personality assessment inventory (PAI) underlying Dr. Yun’s medical opinion do not qualify as objective medical evidence. Objective medical evidence includes “signs,” 20 C.F.R.

§ 404.1502(f), which in turn consist of medically demonstratable phenomena indicative of psychological abnormalities as shown by observable facts. *See* 20 C.F.R. § 404.1502(g). Any diagnosis or observation of psychological abnormalities necessarily “depend[s] in part on the patient’s self-report.” *Buck v. Berryhill*, 869 F.3d 1040, 1049 (9th Cir. 2017). This indicates that observable answers to questions designed to probe a patient’s mental functioning, like those asked of Collins at her mental status exam and PAI, count as objective medical evidence. Hence, Dr. Yun’s opinion has support from objective medical evidence because it relies on the results of a mental status exam and PAI.

The ALJ, however, correctly found Dr. Yun’s opinion lacks consistency because it conflicts with Dr. Lewis’s opinion. A conflict with another medical opinion, by itself, usually would not support an adverse consistency finding. *See* 20 C.F.R. § 416.920c(b) (providing rules for evaluating conflicting medical opinions). But Dr. Lewis’s opinion reflected a comprehensive review of the medical record, while Dr. Yun’s opinion depended primarily on a single PAI and mental status exam. A reasonable mind may conclude that because Dr. Yun’s opinion conflicts with an opinion that summarizes the record, Dr. Yun’s opinion also lacks consistency with the broader medical record itself.

This lack of consistency provides a sufficient reason for finding Dr. Yun’s opinion unpersuasive given the highly deferential substantial evidence standard. *See*

Woods v. Kijakazi, 32 F.4th 785, 793, n.4 (9th Cir. 2022) (upholding an adverse persuasiveness determination based only on inconsistencies between a medical opinion and the medical record). Thus, any error related to the supportability analysis counts as harmless and does not provide a basis for reversing.

2. Collins next argues the ALJ erred by failing to provide “specific, clear, and convincing reasons” for rejecting her subjective symptoms testimony. *Lambert v. Saul*, 980 F.3d 1266, 1277 (9th Cir. 2020). This heightened standard requires that the ALJ “show his [or her] work.” *Smartt v. Kijakazi*, 53 F.4th 489, 499 (9th Cir. 2022). Here, the ALJ provided reasons which satisfy the standard.

The ALJ explicitly and specifically rejected Collins’ testimony about the severity of her anxiety, depression, and inability to follow directions, concentrate, understand, and remember. *See Lambert*, 980 F.3d at 1277 (requiring the ALJ specifically reference the rejected parts of the applicant’s testimony).

Further, the ALJ provided clear and convincing reasons for rejecting that testimony by juxtaposing it with contradictory portions of Collins’ medical records. *See Smartt*, 53 F.4th at 499 (holding direct contradictions with the record provide a sufficient basis for rejecting the claimant’s subjective testimony). For example, the ALJ cited medical records that indicated medication helped control Collins’ depression and anxiety. Moreover, the ALJ cited mental status exams that document Collins’ “normal thought content and affect,” “normal memory,” “normal insight,”

full alertness, “appropriate interactions and questions,” and ability to pursue goals. This evidence suggests that Collins’ possesses the overall normal mental faculties necessary to work. The ALJ thus provided the required clear and convincing reasons for rejecting Collins’ claims about her limited mental functioning.

We AFFIRM.

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H.A. THOMAS, Circuit Judge, concurring in part and dissenting in part:

I agree with the majority that substantial evidence supports the ALJ's evaluation of Dr. Yun's opinion. But I respectfully disagree with the majority's conclusion that the ALJ provided specific, clear, and convincing reasons for rejecting Collins' subjective symptom testimony. "[T]o satisfy the substantial evidence standard, the ALJ must provide specific, clear, and convincing reasons which explain why the medical evidence is *inconsistent* with the claimant's subjective symptom testimony." *Ferguson v. O'Malley*, 95 F.4th 1194, 1200 (9th Cir. 2024). It is thus insufficient for an ALJ to simply recount the claimant's testimony and then state in a single boilerplate sentence that the testimony was inconsistent with the objective medical evidence, without offering an explanation as to how the claimant's medical records contradicted that testimony. Because that is what happened here, I would reverse and remand for further administrative proceedings.