

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 27 2025

FOR THE NINTH CIRCUIT

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

SHARI GINGELL,

Plaintiff - Appellant,

v.

FRANK BISIGNANO, Commissioner of
Social Security,

Defendant - Appellee.

No. 24-6510

D.C. No.

CV-23-01917-PHX-GMS

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
G. Murray Snow, Chief United States District Judge, Presiding

Submitted October 23, 2025**
San Francisco, California

Before: MURGUIA, Chief Judge, and OWENS and BUMATAY, Circuit Judges.

Shari Gingell appeals from the district court's affirmance of the Social Security Administration administrative law judge's ("ALJ") denial of her application for disability benefits under the Social Security Act, 42 U.S.C. §§ 416(i),

* 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).

423(d), 1382c(a)(3)(A). Gingell seeks disability benefits on account of, among other impairments, back pain, congestive heart failure, atrial fibrillation, diabetes mellitus, peripheral neuropathy, and obesity. The ALJ denied her claim and, as relevant to this appeal, found that Gingell has the residual functional capacity (“RFC”) to stand and walk for two hours and sit for six hours in an eight-hour day. Though limited to sedentary work, the ALJ found Gingell capable of performing her prior work as a telemarketer.

We review the district court’s decision affirming an ALJ’s denial of benefits *de novo*. *Farlow v. Kijakazi*, 53 F.4th 485, 487 (9th Cir. 2022). In turn, we review the ALJ’s denial of benefits for substantial evidence or legal error. *Id.* The ALJ’s factual findings are reviewed deferentially and treated as “‘conclusive’ if supported by ‘substantial evidence,’” meaning “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Biestek v. Berryhill*, 587 U.S. 97, 102–03 (2019) (first quoting 42 U.S.C. § 405(g); then quoting *Consolidated Edison Co. of N.Y. v. N.L.R.B.*, 305 U.S. 197, 229 (1938)).

1. The ALJ’s decision to find Gingell not disabled was supported by substantial evidence. The ALJ adequately considered all the material evidence in the record. In adopting a six-hour sedentary limitation over the four-hour limitation identified by the consultative examiner, Dr. Gordon, the ALJ looked to the medical records of Gingell’s post-hospitalization follow-ups and subsequent routine

appointments, the opinion of the state agency medical consultant, and Gingell's hearing testimony. *See Farlow*, 53 F.4th at 488 (describing how ALJs are "capable of independently reviewing and forming conclusions about medical evidence . . . to determine whether a claimant is disabled and cannot work"). The ALJ concluded "[t]he combination of [Gingell's] impairments and their symptoms would reasonably prevent [Gingell] from engaging in greater exertional activity" than the sedentary exertional level. After considering Dr. Gordon's opinion, the ALJ adopted the lifting, carrying, and postural limitations, as well as its two-hour maximum duration for standing and walking. These limitations, together with the use of a cane, would prevent the exacerbation of pain and other symptoms. When identifying Gingell's maximum sedentary duration, the ALJ found the state agency medical consultant's six-hour limitation better supported by the record as a whole than Dr. Gordon's four-hour limit. *See Ford v. Saul*, 950 F.3d 1141, 1154 (9th Cir. 2020) (holding that an ALJ may reject a treating physician's opinion if it is contradicted by another doctor so long as the ALJ gives "specific and legitimate" reasons for doing so (internal citation and quotation marks omitted)). Gingell's routine medical appointments had described considerable improvements following her 2020 hospitalization and had not identified any acute or significant pulmonary or cardiological abnormalities nor signs of respiratory distress. Additionally, in her hearing testimony, Gingell described daily tasks consistent with a sedentary

exertional level and stated she had no difficulty sitting. Thus, the ALJ adequately considered all the material evidence and provided a reasonable basis to find the state agency medical consultant's identified exertional level better supported than that described by Dr. Gordon.

2. Gingell also contends that the ALJ inadequately explained the RFC's deviations from her claimed limitations. The ALJ identified adequate bases in the record for the RFC and explained the grounds for diverging from additional limitations Gingell described in her testimony. *See Burch v. Barnhart*, 400 F.3d 676, 679 (9th Cir. 2005) ("Where evidence is susceptible to more than one rational interpretation, it is the ALJ's conclusion that must be upheld."). For example, the ALJ adequately described the basis for declining to include the use of a walker in the RFC. Gingell was only prescribed a walker after her 2020 hospitalization and record evidence demonstrated significant improvement since that time. The ALJ further noted that her described limitation to three or four minutes standing at one time was inconsistent with the medical record, especially as the RFC included the medical necessity of a cane. Regarding Gingell's diabetes-related sensory loss and neuropathy, the ALJ described the record evidence of Gingell's significant improvement in managing her diabetes and noted that her treatment records did not identify any sensory loss or neuropathy. Moreover, the daily tasks Gingell testified to, including taking care of her friend, changing diapers, preparing meals, caring for

cats, and running occasional errands for household needs, were consistent with the RFC's sedentary exertional limit. Any difficulties with depression did not amount to a disabling mental health condition because mental health notations throughout the record indicated Gingell's normal mood and affect, and a medical consultative examination had found her fully oriented and cogent.

In sum, the ALJ's findings, including those that deviate from Gingell's proposed limitations, remain supported by substantial evidence.

AFFIRMED.