

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 23 2026

FOR THE NINTH CIRCUIT

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

JOSEPH ROBERT WARD,

Plaintiff - Appellant,

v.

FRANK BISIGNANO, Commissioner of
Social Security,

Defendant - Appellee.

No. 25-3647

D.C. No.

5:24-cv-00539-FWS-PD

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Fred W. Slaughter, District Judge, Presiding

Submitted October 21, 2026**
Pasadena, California

Before: N.R. SMITH and JOHNSTONE, Circuit Judges, and ORRICK, District
Judge.***

Joseph Ward appeals the district court's order affirming the Commissioner

* 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).

*** The Honorable William Horsley Orrick, United States District Judge
for the Northern District of California, sitting by designation.

of the Social Security Administration’s denial of his application for disability insurance benefits. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

We review de novo the district court’s order, setting aside the denial of benefits only when the administrative law judge’s (“ALJ”) decision “is based on legal error or not supported by substantial evidence in the record.” *Trevizo v. Berryhill*, 871 F.3d 664, 674 (9th Cir. 2017) (citation modified). “Where evidence is susceptible to more than one rational interpretation, the ALJ’s decision should be upheld.” *Id.* at 674–75 (citation modified).

1. The ALJ gave clear and convincing reasons, supported by substantial evidence, to discount Ward’s subjective symptom testimony. *See Smartt v. Kijakazi*, 53 F.4th 489, 497 (9th Cir. 2022) (discounting subjective testimony that was inconsistent with objective evidence). The ALJ found that Ward’s allegation that back pain limited his range of motion for work activities was inconsistent with an X-ray of his spine interpreted as mostly “unremarkable.” The ALJ also found that his allegation of severe and persistent mental health symptoms conflicted with records rating those symptoms “mild” and his own reports that he “felt much better.” The ALJ further relied on his testimony regarding his daily activities of barbequing, yard work, shopping, driving, bike riding, and church attendance. *See Smartt*, 53 F.4th at 499 (holding that an ALJ may consider “whether the claimant engages in daily activities inconsistent with the alleged symptoms” (citation

modified)). And the ALJ found his allegation of difficulty walking in conflict with the consultative examiner's opinion that he could stand and walk six hours in a workday and with evidence that he ambulated independently. The ALJ permissibly discounted Ward's testimony.¹

2. The ALJ did not err in relying on the vocational expert's testimony that Ward could perform the harvest worker occupation. Where an apparent conflict exists between vocational expert testimony and the *Dictionary of Occupational Titles* ("DOT"), as long as the ALJ asks the expert to reconcile the conflict, the ALJ is permitted to rely on the expert's opinion. *Gutierrez v. Colvin*, 844 F.3d 804, 807 (9th Cir. 2016). Moreover, if the conflict is not "obvious or apparent," the ALJ is not required to even consult the expert. *Id.* at 808.

There is no conflict here. The ALJ limited Ward to frequent handling with the right upper extremity—a finding he does not challenge—and the DOT codes harvest worker as requiring handling "frequently." *See* DOT § 402.687-014, 1991 WL 673298 (4th ed. 1991) (harvest worker). The expert withdrew the cleaner occupation because it requires constant handling. *See id.* § 919.687-014, 1991 WL 687897 (4th ed. 1991) (cleaner). That withdrawal does not bear on a frequent-handling occupation. Ward's contention that common sense establishes that

¹ Ward does not dispute the ALJ's analysis of the objective medical evidence, which he declined to challenge in district court.

harvest work requires constant handling does not create an “obvious or apparent” conflict between the vocational expert’s testimony and the DOT’s definition. Because no conflict existed, the ALJ had no duty to consult with the expert.

3. Nor did the ALJ commit reversible error in finding Ward capable of occupations carrying Specific Vocational Preparation (“SVP”) Level two despite the fact that Ward was limited to one- to two-step simple tasks. This Court has held only that a limitation to one- to two-step tasks apparently conflicts with an occupational assignment requiring a General Educational Development (“GED”) Reasoning Level of two or higher. *See Rounds v. Comm’r of Soc. Sec. Admin.*, 807 F.3d 996, 1002–03 (9th Cir. 2015) (finding such a conflict on the facts of that case). The GED Reasoning metric at issue in *Rounds* is distinct from the SVP metric associated with Ward’s DOT occupations. *See Appendix C - Components of the Definition Trailer*, §§ II–III, DOT, 1991 WL 688702 (4th ed. 1991) (separately defining GED Reasoning and SVP). Ward seeks to extend the *Rounds* logic to SVP Levels.

We need not consider here whether *Rounds* should be extended to SVP Levels. The harvest worker occupation, which requires only SVP Level one, independently supplies a sufficient number of jobs in the national economy to support the ALJ’s decision. *See Shaibi v. Berryhill*, 883 F.3d 1102, 1110 n.7 (9th Cir. 2018) (finding that an ALJ’s error regarding the applicant’s ability to perform

one job is harmless when he can perform other jobs).

Further, both the housekeeper and harvest worker occupations fall under GED Reasoning Level one. *See* DOT § 323.687-014, 1991 WL 672783 (4th ed. 1991) (housekeeper); DOT § 402.687-014, 1991 WL 673298 (4th ed. 1991) (harvest worker, vegetable). *Rounds* found that occupations requiring GED Reasoning Level one are consistent with a one- to two-step limitation. 807 F.3d at 1003. Any error as to the laundry worker occupation was harmless, as the harvest worker and housekeeper occupations each independently supply a significant number of jobs in the national economy. *See Shaibi*, 883 F.3d at 1110 n.7 (illustrating this principle).

AFFIRMED.