NOT FOR PUBLICATION

FILED

NOV 3 2026

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

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MICHAEL LEE, Plaintiff - Appellant, v. FRANK BISIGNANO, Commissioner of Social Security, Defendant - Appellee.	No. 25-2542 D.C. No. 3:23-cv-01967-CAB-VET MEMORANDUM[*]

Appeal from the United States District Court
for the Southern District of California
Cathy Ann Bencivengo, District Judge, Presiding

Submitted October 30, 2026[**]
Pasadena, California

Before: PAEZ, OWENS, and SANCHEZ, Circuit Judges.

Claimant Michael L. Lee appeals the district court's decision affirming the Commissioner of Social Security's denial of his application for disability insurance

[*] 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).

benefits under the Social Security Act. We have jurisdiction under 28 U.S.C. § 1291. We affirm.

First, the administrative law judge ("ALJ") properly rejected Lee's testimony in concluding that his leg and spinal issues are "non-severe." The ALJ cited numerous medical examination records and treatment testimony to conclude that Lee did not have serious impairments with his foot, knee, leg, or spine. For example, the ALJ noted that Lee was "full weight-bearing without assistive devices" despite fracturing his right fibula and stating that he had a limp; he did not make an appointment with an orthopedist for his knee despite receiving a referral; his "ankle pain improved with conservative treatment"; he did not need injections or surgery; and he could "walk on his heels and toes" and did not have nerve-related leg pain during an exam. Additionally, Lee's examination showed normal spine activity, and he did not need injections or other invasive treatments.

Next, the ALJ acknowledged Lee's testimony about his right shoulder impairment but concluded that Lee's "statements concerning the intensity, persistence and limiting effects of these symptoms are not entirely consistent with the medical evidence and other evidence in the record." Although we have concerns about the ALJ's analysis, which failed to capture the full scope of the highly relevant medical evidence, substantial evidence supports the conclusion that Lee was capable of performing his past work as a companion for seniors, which he

performed at a sedentary residual functional capacity ("RFC"). Lee testified that "his main duty was to sit in a chair and watch elderly people." He gave them pre-prepared meals. He sat with each person from six-to-seven hours a day, and sometimes they would sleep all day and Lee "would do nothing for the entire shift." The ALJ noted that while companion work is generally classified as "light, semi-skilled work," based on Lee's descriptions of his day-to-day duties, his actually performed work was "sedentary, unskilled work." Additionally, Lee testified that he believed he could perform his job again. The ALJ therefore correctly concluded that Lee could perform his "past relevant work" as a companion even with his impairments. The ALJ thus found Lee not "under a disability" pursuant to 20 C.F.R. § 404.1520(a)(4) and stopped short of conducting a full disability evaluation.

Finally, the ALJ investigated whether Lee's companion work was done under special conditions to accommodate his injuries. Under the Social Security Act's regulations, work done under special conditions could lead to a finding that the claimant does not "have the ability to do substantial gainful activity." 20 C.F.R. § 404.1573(c). The ALJ found that Lee applied for the job on the open market, not through any special program that provided subsidies or accommodations or through a family friend who could have provided more lenient employment duties. The ALJ also relied on email evidence from Mr. Miller, Lee's

employer, who "did not report [giving Lee] any special accommodations, subsidies, or reduced job duties because of any impairment." Substantial evidence supports the ALJ's conclusion that Lee did not obtain his companion job under special conditions.

Because the Commissioner's decision is not legally erroneous and is supported by substantial evidence, we affirm. *See* 42 U.S.C. § 405(g); *Coleman v. Saul*, 979 F.3d 751, 755 (9th Cir. 2020).

AFFIRMED.