

OCT 29 2007

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

DONALD H. GRAHAM, JR.,

Plaintiff - Appellant,

v.

MICHAEL J. ASTRUE, Commissioner of
Social Security Administration,

Defendant - Appellee.

No. 05-17173

D.C. No. CV-04-01754-VAM

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Virginia A. Mathis, Magistrate Judge, Presiding

Argued and Submitted October 18, 2007
San Francisco, California

Before: KLEINFELD and RAWLINSON, Circuit Judges, and RESTANI**, Judge.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The Honorable Jane A. Restani, Chief Judge, United States Court of International Trade, sitting by designation.

The pivotal issue on appeal is whether the Administrative Law Judge (ALJ) impermissibly afforded more weight to the opinion of the non-examining psychologist than that of the examining psychologist. Because substantial evidence in the record supported the ALJ's determination that the examining psychologist's opinion was inconsistent with the other objective evidence in the record, his denial of benefits complied with our governing precedent. *See Tonapetyan v. Halter*, 242 F.3d 1144, 1148-49 (9th Cir. 2001) (recognizing that the ALJ may reject an examining physician's opinion after weighing that opinion in the context of the entire record).

Donald Graham's remaining contentions lack merit.

AFFIRMED.