

MAR 06 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION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

KAREN L. ELLIS,

Plaintiff - Appellant,

v.

MICHAEL J. ASTRUE, Commissioner of
Social Security,

Defendant - Appellee.

No. 08-35344

D.C. No. 3:07-CV-00209-HU

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Dennis James Hubel, Magistrate Judge, Presiding

Submitted March 6, 2009**
Portland, Oregon

Before: GRABER, FISHER and M. SMITH, Circuit Judges.

Plaintiff-Appellant Karen Ellis appeals the Commissioner's denial of her disability benefits, alleging that the administrative law judge's (ALJ) ruling that she was not disabled was not supported by substantial evidence and is plagued by

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

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

legal error. Because the parties are familiar with the facts, we do not recount them here except as necessary to explain our decision. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

When, as in this case, a claimant presents objective medical evidence of an underlying impairment, and there is no evidence of malingering, the ALJ may reject her testimony about the severity of her symptoms only by offering specific, clear and convincing reasons for doing so. *Lingenfelter v. Astrue*, 504 F.3d 1028, 1035-36 (9th Cir. 2007). The ALJ presented such specific, clear and convincing reasons for rejecting Ellis's testimony regarding the severity of her symptoms, noting that despite her claims that she was unable to sit for more than ten to fifteen minutes, she was able to drive herself to and from her parents' house, two hours away, and be a passenger on cross-country road trips. In addition, Ellis did her own housework and volunteered to babysit on a regular basis, despite her claim that she needed to take naps after ten to fifteen minutes of activity. Ellis also prepared her own tax returns, despite her claim that she could not work without making errors.

The ALJ did not clearly err in determining that Ellis could engage in her prior relevant work as a full-time insurance agent. Although Ellis presented credible evidence that she was impaired by interstitial cystitis, the ALJ correctly

noted that this condition was diagnosed several years before Ellis's claimed disability, and her need for frequent bathroom breaks did not appear to prevent her from working full time.

AFFIRMED.