

U.S. Department of Labor

Benefits Review Board  
200 Constitution Ave. NW  
Washington, DC 20210-0001



BRB No. 24-0291

BERNARD NTEGE )  
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 Claimant-Petitioner )  
 )  
 v. )  
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 SOC, LLC )  
 )  
 and )  
 )  
 CONTINENTAL INSURANCE COMPANY )  
 )  
 Employer/Carrier- )  
 Respondents )

**NOT-PUBLISHED**

DATE ISSUED: 04/06/2026

DECISION and ORDER

Appeal of the Decision and Order of Patrick M. Rosenow, District Chief Administrative Law Judge, United States Department of Labor.

Andrew Nyombi (KNA Pearl), Silver Spring, Maryland, for Claimant.

Krystal L. Layher and Carolina A. Phillips (Brown Sims), Houston, Texas, for the Employer and its Carrier.

BEFORE: GRESH, Chief Administrative Appeals Judge, ROLFE and JONES, Administrative Appeals Judges.

PER CURIAM:

Claimant appeals District Chief Administrative Law Judge (ALJ) Patrick M. Rosenow’s Decision and Order (2021-LDA-01933) rendered on a claim filed pursuant to the Longshore and Harbor Workers’ Compensation Act, as amended, 33 U.S.C. §§901-950 (Act), as extended by the Defense Base Act, 42 U.S.C. §§1651-1655 (DBA). We must affirm the ALJ’s findings of fact and conclusions of law if they are rational, supported by

substantial evidence, and in accordance with applicable law.<sup>1</sup> 33 U.S.C. §921(b)(3); *O’Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

Claimant, who worked as an armed security guard for Employer in Iraq from September 7, 2010, until November 24, 2011,<sup>2</sup> filed a claim for disability compensation and medical benefits under the Act, alleging he suffers from psychological conditions caused by the stressful and traumatic environment in which he worked.<sup>3</sup> Claimant’s Exhibit (CX) 1 at 2. Employer denied his claim, Employer’s Exhibit (EX) 4, and the case was referred to the Office of Administrative Law Judges for formal adjudication.

On April 3, 2024, the ALJ issued a decision and order (D&O) based on the parties’ written evidence and arguments. 20 C.F.R. §702.346. He determined Claimant invoked the Section 20(a) presumption of causation, and Employer produced substantial evidence to rebut it, 33 U.S.C. §920(a). D&O at 9. Upon weighing the evidence in the record as a whole, the ALJ concluded Claimant failed to prove by a preponderance of the evidence that he sustained a work-related psychological condition. *Id.* at 12. He therefore denied Claimant’s claim for disability and medical benefits. *Id.*

On appeal, Claimant contends the ALJ erred in finding Employer rebutted the Section 20(a) presumption, 33 U.S.C. §920(a), and challenges the ALJ’s credibility determinations and weighing of the evidence as a whole as irrational and not supported by substantial evidence. Employer responds, urging affirmance of the denial of benefits.

Claimant first contends the ALJ erred in finding the opinion of Employer’s expert forensic psychologist, Dr. Bahar Safaei-Far, sufficient to rebut the Section 20(a) presumption. He argues Dr. Safaei-Far’s opinion was conclusory, based primarily on symptom validity testing, and lacked supporting test data or transcripts; thus, he asserts her report did not constitute the “substantial, specific, and comprehensive” evidence required

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<sup>1</sup> This case arises within the jurisdiction of the United States Court of Appeals for the Second Circuit because the office of the district director who filed the ALJ’s decision is located in New York. 33 U.S.C. §921(c); *McDonald v. Aecom Tech. Corp.*, 45 BRBS 45, 47 (2011); *see also Glob. Linguist Sols., L.L.C. v. Abdelmegeed*, 913 F.3d 921, 922 (9th Cir. 2019).

<sup>2</sup> Claimant’s employment with Employer ended when the base at which he was stationed closed, and Employer did not offer him a reassignment. EX 1 at 17.

<sup>3</sup> Claimant testified he experienced rocket attacks and explosions. In 2010, a rocket hit the entry control point tower where he was working, and he also had to take cover when a rocket exploded near a bus he was on which injured several people. EX 1 at 25-26.

to sever the causal connection between his psychological injury and his employment with Employer. Cl. Br. at 17-26. We reject Claimant’s contentions.

When a claimant invokes the Section 20(a) presumption by producing some evidence or allegation of a harm and working conditions that could have caused, aggravated, or accelerated the harm, as here, his injury is presumed to be work-related.<sup>4</sup> *Rose v. Vectrus Sys. Corp.*, 56 BRBS 27, 37 (2022) (en banc); see, e.g., *Am. Stevedoring Ltd. v. Marinelli*, 248 F.3d 54, 64-65 (2d Cir. 2001). Once invoked, the burden shifts to the employer to rebut the presumption by producing “substantial evidence” showing workplace conditions did not cause, contribute to, or aggravate the claimant’s condition. *Rainey v. Dir.*, *OWCP*, 517 F.3d 632, 637 (2d Cir. 2008); *O’Kelley v. Dep’t of the Army/NAF*, 34 BRBS 39, 41 (2000). A physician’s unequivocal opinion that a claimant does not suffer from the alleged injury or that no relationship exists between the alleged injury and a claimant’s employment is sufficient to rebut the presumption. See *Sylejmani v. Fluor Conops, Ltd.*, 57 BRBS 25, 31 (2023); *Suarez v. Serv. Emps. Int’l, Inc.*, 50 BRBS 33, 36 (2016); *Cline v. Huntington Ingalls, Inc.*, 48 BRBS 5, 7 (2013); *O’Kelley*, 34 BRBS at 41. If the employer rebuts the Section 20(a) presumption, it no longer applies and the issue of causation must be resolved on the record as a whole with the claimant bearing the burden of persuasion. *Rainey v. Dir.*, *OWCP*, 517 F.3d 632, 634 (2d Cir. 2008); *Marinelli*, 248 F.3d at 65; *Santoro v. Maher Terminal, Inc.*, 30 BRBS 171 (1996); see also *Dir.*, *OWCP v. Greenwich Collieries [Ondecko]*, 512 U.S. 267, 276 (1994).

In the instant case, Employer relied on Dr. Safaei-Far, who opined “no evidence” supported Claimant’s allegations that his employment caused or aggravated his symptoms. EX 8 at 8. As part of her psychological evaluation, Dr. Safaei-Far reviewed Claimant’s treatment notes and claim documents, interviewed Claimant about his employment, medical, and symptom history, and administered the Miller Forensic Assessment of Symptoms Test (M-FAST) to gauge the veracity of Claimant’s self-reported symptoms. She noted Claimant reported during the evaluation “rare symptoms and combinations inconsistent with recognized psychiatric disorders.” *Id.* Specifically, she opined his reported symptoms and those documented by his treating providers did not meet the diagnostic criteria for post-traumatic stress disorder (PTSD) or psychosis. Dr. Safaei-Far concluded Claimant did not have work-related PTSD or a psychological disorder based upon his inconsistent symptom reporting, inability to explain how his symptoms affected his functionality or identify coping mechanisms he learned in treatment, the eight-year delay between when he alleged his symptoms manifested and when he sought treatment,

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<sup>4</sup> We affirm as unchallenged on appeal the ALJ’s finding that Claimant invoked the Section 20(a) presumption, 33 U.S.C. §920(a). *Scalio v. Ceres Marine Terminals, Inc.*, 41 BRBS 57, 58 (2007).

and his M-FAST score showing “significant evidence of malingering or feigned psychiatric symptoms.” EX 8 at 8-9. The ALJ found Dr. Safaei-Far’s opinion was unequivocal and “clearly would cause a reasonable mind to question the accuracy of the presumption.” D&O at 9.

The ALJ correctly determined Dr. Safaei-Far’s opinion is sufficient to rebut the presumption. Claimant’s contentions primarily go to the persuasive value of Dr. Safaei-Far’s opinion as opposed to whether it was legally sufficient for the purpose of rebutting the presumption of causation. The Benefits Review Board and courts have long held the employer’s burden on rebuttal is one of production, and Employer has met its burden. *Sylejmani*, 57 BRBS at 31; *Suarez*, 50 BRBS at 36; *Cline*, 48 BRBS at 7; *O’Kelley*, 34 BRBS at 41. Because we do not weigh the persuasiveness of Dr. Safaei-Far’s unequivocal opinion that Claimant did not suffer from a work-related psychological condition at this stage, it is considered “such relevant evidence that a reasonable mind might accept as adequate to support a conclusion.” *Biestek v. Berryhill*, 597 U.S. 97, 103 (2019) (quoting *Consol. Edison Co. v. NLRB*, 305 U.S. 197, 229 (1938) (internal quotations omitted)). Consequently, we affirm the ALJ’s finding that Employer rebutted the Section 20(a) presumption. Thus, it drops from the case and the decision must be based on consideration of the record as a whole, with Claimant bearing the burden of persuasion. *Ondecko*, 512 U.S. 267.

Claimant alternatively argues that if Employer successfully rebutted the presumption, then the ALJ erred in weighing the evidence by assigning greater weight to Dr. Safaei-Far’s opinions over those of Claimant’s treating providers and by finding Claimant’s testimony minimally credible. Cl. Br. at 28-44. He contends his long-term treating providers at Butabika Hospital and his therapist Okori Patrick conducted in-person evaluations, diagnosed PTSD and depression, and consistently related his condition to his employment in Iraq. Thus, he contends their opinions were documented and reasoned and should have been given controlling weight. He maintains the ALJ improperly discounted his providers’ opinions, yet credited Dr. Safaei-Far’s opinion that was based only on her one interaction with him. Claimant asserts his testimony was consistent with his medical records and any discrepancies were attributable to trauma-related memory issues, translation barriers, and the passage of time. For these reasons, he argues the ALJ erred in concluding he failed to meet his burden of persuasion and in denying benefits. *Id.* We reject Claimant’s contentions.

As the fact-finder, the ALJ is entitled to assess both the weight of the evidence and the credibility of the witnesses. *Pietrunti v. Dir.*, *OWCP*, 119 F.3d 1035, 1042 (2d Cir. 1997); *John W. McGrath Corp. v. Hughes*, 289 F.2d 403, 405 (2d Cir. 1961). In doing so, he may accept parts of a witness’s testimony while rejecting others, *Banks v. Chi. Grain Trimmers Ass’n*, 390 U.S. 459, 467 (1968); *Pimpinella v. Universal Mar. Serv. Inc.*, 27

BRBS 154, 157 (1993), and may draw his own inferences and conclusions from the evidence. *Sealand Terminals, Inc. v. Gasparic*, 7 F.3d 321, 323 (2d Cir. 1993); *Compton v. Avondale Indus., Inc.*, 33 BRBS 174, 176-177 (1999). The Board may not reweigh the evidence or substitute its opinion for that of the ALJ even if the evidence could support other inferences or conclusions. *Burns v. Director, OWCP*, 41 F.3d 1555, 1562 (D.C. Cir. 1994); *Gasparic*, 7 F.3d at 323. If the ALJ's conclusion upon weighing the evidence is rational and supported by substantial evidence, it must be affirmed. 33 U.S.C. §921(b)(3); *Carswell v. E. Pihl & Sons*, 999 F.3d 18, 27 (1st Cir. 2021); *Gasparic*, 7 F.3d at 323.

In support of his claim, Claimant submitted records from his providers at Butabika Hospital where he began treating for his alleged psychological injury in 2019. *See generally* CX 1. He testified he initially received treatment from Psychiatric Clinical Officer (PCO) Alezuyo Florence and was diagnosed with PTSD and psychosis. EX 1 at 19; CX 1 at 1; CX 4 at 1-13. Shortly thereafter, he returned to Butabika Hospital for follow up treatment and saw psychiatrist Apio Irene Wengi. EX 1 at 20; CX 1 at 2-3; CX 4 at 14-27. She diagnosed PTSD and psychosis caused by his employment in Iraq, recommended medication and psychotherapy, and restricted him from performing any work while he was receiving treatment. She wrote that if Claimant was able to work, he was restricted to light duty and could not use guns. CX 1 at 2-3. Claimant testified he was later treated at Butabika Hospital by PCO Mubangizi Geoffrey. EX 1 at 20; CX 1 at 13; CX 4 at 28-36. Claimant also submitted a psychological assessment report from Mr. Okori at Alina CAMHS and Mental Health Clinic. CX 1 at 8-12; CX 4 at 40-46. Mr. Okori indicated Claimant's "Main Syndrome" was depression and "Trauma related" and "Main Diagnosis" was "Severe depression." CX 1 at 10.

As for Claimant's credibility, the ALJ found his statements unpersuasive and "minimally credible." D&O at 9. While acknowledging that some inconsistencies may be attributable to translation issues, he nevertheless determined Claimant was at times unable to credibly recall relevant details and that his symptom reporting was inconsistent across his deposition, Butabika Hospital records, Mr. Okori's report, and Dr. Safaei-Far's evaluation.<sup>5</sup> *Id.* at 9-10.

The ALJ rationally assigned "minimal weight" to the opinions of PCO Alezuyo, Dr. Apio, and PCO Mubangizi because they relied "exclusively" on Claimant's self-reports, which he had already found to be minimally credible. D&O at 10. He observed many of the Butabika Hospital treatment notes contained "significant illegible handwriting," were

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<sup>5</sup> The ALJ specifically noted discrepancies regarding reports of suicidal ideation, hallucinations, improvement with treatment, and the onset and impact of Claimant's reported symptoms. D&O at 9-10.

unsigned, or did not clearly identify the treating provider. *Id.* Where legible, the ALJ found the records lacked detailed medical or diagnostic analysis, contained unexplained changes in diagnoses over time,<sup>6</sup> and did not include documented diagnostic testing or explanation supporting a causal link between Claimant’s reported symptoms and his employment in Iraq. *Id.* He likewise found Dr. Apio’s questionnaire of “limited probative value” because it appeared “narrowly tailored” and lacked medical reasoning or explanation supporting her opinion that Claimant has “PTSD with psychosis” and that it was caused by his employment in Iraq. *Id.* at 11; *see* CX 1 at 2-3.

As for Mr. Okori, the ALJ noted his report was “somewhat more detailed” than Claimant’s Butabika Hospital records; however, he found Mr. Okori’s opinion “conclusory, not well-documented or well-reasoned, and of no probative weight.” D&O at 11. The ALJ emphasized there was no narrative explanation, minimal background history, unexplained use of symptom tables and scoring tools, inconsistencies within the form, no explanation for the diagnosis of severe depression, and no opinion regarding causation. *Id.* He also noted Mr. Okori’s report did not indicate whether he reviewed Claimant’s prior medical records or performed “any discernable psychological testing.” From this, the ALJ concluded Mr. Okori’s opinion that Claimant suffers from severe depression appeared to be based “primarily, if not solely,” on Claimant’s “unreliable and inconsistent” self-reports. *Id.*; *see* CX 1 at 8-12.

By contrast, the ALJ found Dr. Safaei-Far’s opinion “well-documented and well-reasoned” and more probative than Claimant’s providers’ opinions because she fully documented Claimant’s background information, reviewed relevant records, performed psychological testing, and adequately explained the basis of her opinion that Claimant does not meet diagnostic criteria for PTSD or a mental disorder. D&O at 11-12; *see* EX 8 at 8. In doing so, the ALJ rejected Claimant’s argument that Dr. Safaei-Far’s opinion should be given minimal weight because she conducted her evaluation with an interpreter and used psychological tests “presumably not normed for Ugandan citizens.” D&O at 12. He explained Claimant consented to and understood the purpose of the evaluation and cited no binding legal authority for his argument or evidence of alternative local testing measures that were used by the providers upon which he relied. *Id.*

As the ALJ’s credibility determinations and factual findings are rational and supported by substantial evidence, we lack the authority to disturb his conclusion even if we would have come to a different result on the same evidence. 33 U.S.C. § 921(b)(3)

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<sup>6</sup> Collectively, Claimant’s Butabika Hospital records reflect that he was diagnosed with PTSD, PTSD with paranoia, PTSD with depressive symptoms, PTSD with depression, and depression at various times throughout his treatment. CX 1 at 4-7, 14-18.

(“The findings of fact in the decision under review by the Board shall be conclusive if supported by substantial evidence in the record as a whole.”); *Universal Camera Corp. v. NLRB*, 340 U.S. 474, 488 (1951) (Facing a choice “between two fairly conflicting views” under substantial evidence review, a reviewing court may not displace a lower court’s conclusion “even though the court would justifiably have made a different choice had the matter been before it *de novo*.”); *Elkins v. Sec’y of Health & Human Services*, 658 F.2d 437, 439 (6th Cir. 1981) (“If the [ALJ’s] findings are supported by substantial evidence, we must affirm the ALJ’s decision, even though as triers of fact we might have arrived at a different result.”). Consequently, we affirm the finding that Claimant failed to establish by a preponderance of the evidence that he has a work-related psychological injury condition and the denial of disability compensation and medical benefits. 33 U.S.C. §921(b)(3); *Pietrunti*, 119 F.3d at 1042; *Burns*, 41 F.3d at 1562; *Gasparic*, 7 F.3d at 323; *Hughes*, 289 F.2d at 409; *Carswell*, 999 F.3d at 31-33.

Accordingly, we affirm the ALJ’s Decision and Order.

SO ORDERED.

DANIEL T. GRESH, Chief  
Administrative Appeals Judge

JONATHAN ROLFE  
Administrative Appeals Judge

MELISSA LIN JONES  
Administrative Appeals Judge