



BRB No. 24-0342

MONICA AHUMUZA

Claimant-Petitioner

v.

SOC, LLC

and

CONTINENTAL INSURANCE COMPANY

Employer/Carrier-
Respondents

NOT-PUBLISHED

DATE ISSUED: 08/18/2026

DECISION and ORDER

Appeal of the Decision and Order Denying Benefits of Stewart F. Alford,
Administrative Law Judge, United States Department of Labor.

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

Lauren E. Wilson and Anutida L. Srilamsingha (Brown Sims), Houston,
Texas, for Employer and Carrier.

Before: ROLFE, Acting Chief Administrative Appeals Judge, JONES, and
ULMER, Administrative Appeals Judges.

ROLFE, Acting Chief Administrative Appeals Judge, and ULMER,
Administrative Appeals Judge:

Claimant appeals Administrative Law Judge (ALJ) Stewart F. Alford's Decision and Order Denying Benefits (2021-LDA-002518) 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.¹ 33 U.S.C. §921(b)(3); *O'Keeffe v. Smith, Hinchman & Grylls Assocs., Inc.*, 380 U.S. 359 (1965).

Claimant seeks disability and medical benefits under the Act for a claimed psychological injury and hearing loss allegedly related to her employment. Claimant worked for Employer as an armed security guard in Iraq from February 2007 to September or October 2011.² Decision and Order (D&O) at 5; Joint Exhibit (JX) 4 at 6, 8.

During her employment, Claimant reported seeing military vehicles return to base with injured and dead bodies, some without limbs; spotting a decapitated Iraqi while scouting the area with binoculars, which she reported via radio; and experiencing mortar and rocket attacks, during which she took shelter in a bunker. D&O at 6-7; JX 4 at 7-8. Claimant also stated she was exposed to suicide and car bombings, as well as small arms fire. D&O at 7; EX 12 at 12. Employer never directly disputes Claimant witnessed these events, Emp. post-hearing brief at 12-13, and the ALJ, while questioning the self-reporting of Claimant's alleged resulting symptoms, likewise does not find Claimant's reporting of the events themselves not credible. D&O at 27-28 (noting the ALJ would explain why any specific testimony is not credible), *id.*, at 36 (finding Claimant's symptom reporting not credible without discussing the underlying traumatic events).

In 2008, Claimant went to the medic complaining of headaches, nightmares, weakness, and trouble sleeping. D&O at 8; JX 4 at 7. She was advised to drink plenty of water, and if she was unable to continue working, to request to return to Uganda. *Id.* Claimant chose to stay in Iraq, initially describing her symptoms as mild with no effect on her work. But she said they became more severe over time.³ D&O at 8; JX 4 at 8.

¹ 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 handled this claim is located in New York. 33 U.S.C. §921(c); *Glob. Linguist Sols., LLC v. Abdelmeged*, 913 F.3d 921, 922 (9th Cir. 2019); *Hice v. Director, OWCP*, 156 F.3d 214, 218 (D.C. Cir. 1998) ("The location of . . . the district director[] who handled [the] claim determines the proper court to hear [the] appeal."); Referral Letter (Aug. 7, 2024).

² Claimant worked at Camp Adder Talili and Joint Base Balad and her duties included guarding the entry control points, searching vehicles, working in the watch tower, and performing guard work. Joint Exhibit (JX) 4 at 6; Employer's Exhibit (EX) 6 at 2; EX 12 at 13.

³ She testified that her symptoms also included fearfulness, worrying, anxiety, isolation, depression, and feeling uneasy around others. D&O at 8; JX 4 at 8.

After returning to Uganda in 2011, Claimant planned to open a business but has not worked or applied to any jobs. D&O at 9; JX 4 at 7, 13. She reported the symptoms that began in Iraq continued to impact her life, leading to a lack of interest in working, memory lapses, trouble concentrating, and poor judgment. D&O at 9; JX 4 at 9. In 2012, Claimant began going to church for prayers hoping to treat her symptoms, but she did not experience any improvement. D&O at 9, JX 4 at 9.

On July 24, 2019, Claimant began treating with Senior Psychiatric Clinical Officer (PCO) Buhese Wilson at Mbarara Regional Referral Hospital.⁴ D&O at 10; Claimant's Exhibit (CX) 3 at 3; JX 4 at 10. She reported symptoms of amnesia, nightmares, irritability, reduced libido, headaches, isolation, flashbacks, and hypervigilance. D&O at 10; CX 3 at 3. PCO Wilson diagnosed Claimant with Post-Traumatic Stress Disorder (PTSD) and depression. D&O at 10; JX 4 at 10; CX 3 at 3. On August 8, 2019, he completed a questionnaire wherein he diagnosed Claimant with PTSD and depression and opined her overseas employment and exposure to traumatic events "greatly contributed" to these conditions. CX 3 at 1-2. He restricted her from employment involving access to dangerous weapons or poisonous chemicals and from working in a war zone. *Id.* at 2. PCO Wilson has continued to treat Claimant with medication, and Claimant reported her symptoms have improved under his care.⁵ CX 3 at 1-2, 6-12, 16-20; JX 4 at 11.

In 2019 or 2020, Claimant sought treatment for hearing loss symptoms from Senior Clinical Officer Namaalwa Cossy. D&O at 13; JX 4 at 12. Claimant testified that her hearing loss was a result of loud aircraft while in Iraq. D&O at 7; JX 4 at 9. Claimant reported experiencing pain, ringing, buzzing, throbbing, trouble hearing, and the feeling of her ears being plugged. D&O at 13; JX 4 at 12-13. On January 3, 2020,⁶ Claimant complained of painful ears on hearing loud sounds that started when she was in Iraq but has worsened with time. CX 3 at 4. An audiogram was conducted the same day. *Id.* at 5.

⁴ Claimant's uncle took her to see PCO Wilson and was in the room with her during the visit. D&O at 9-10; JX 4 at 9-10.

⁵ It appears the ALJ has transposed some of the dates in his D&O, as the reports identify the day then the month and do not use the American standard of month then day. In any event, the record shows Claimant treated with PCO Wilson fourteen times from July 24, 2019, through August 9, 2022 (this includes the questionnaire completed on August 8, 2019). CX 3 at 1-2, 6-12, 16-20.

⁶ As noted above, this medical record is dated "3/1/2020," which is January 3, 2020, not March 1, 2020, as the ALJ wrote. CX 3 at 4-5; D&O at 14.

Claimant was diagnosed with sensorineural hearing loss.⁷ D&O at 14; CX 3 at 4-5.

On September 20, 2021, Claimant met with psychiatrist Dr. Kesande Claire with complaints of lack of sleep, forgetfulness, poor concentration and headache. D&O at 14; CX 3 at 13-15. She also described experiencing intrusive thoughts, irritability, nightmares, isolation, and flashbacks. CX 3 at 13. Dr. Claire interviewed Claimant, reviewed medical records, and administered the following tests: the PHQ-9, the PCL-5, and the WHO-DAS. CX 3 at 14. Dr. Claire concluded Claimant has “signs and symptoms of [PTSD] comorbid with depression which are consistent with psychometric tests” and that this condition is “most likely caused by her experiences in Iraq.” D&O at 16; CX 3 at 14.

On October 3, 2022, at Employer’s request, Dr. Daniel Proto, a licensed psychologist and board-certified clinical neuropsychologist, evaluated Claimant virtually with the assistance of an interpreter. Employer’s Exhibit (EX) 6. Claimant reported her symptoms began in 2008, with nightmares, remained stable while she was in Iraq, but worsened upon her return to Uganda. EX 6 at 3. She reported experiencing feelings of fear, memory issues, and low energy levels. *Id.* Based on his interview with Claimant, his review of her treatment records, and testing results,⁸ Dr. Proto concluded Claimant does not have any psychiatric condition.⁹ D&O at 16, 22; EX 6 at 9-11, 14.

Employer also had Dr. Mohammed Ranavaya, a board-certified occupational medicine specialist, review Claimant’s records and audiogram to address her hearing loss claim. D&O at 25; EX 9. Although a pure tone audiogram showed moderate sensorineural hearing loss, Dr. Ranavaya described the 2020 audiogram as incomplete with critical information missing. Among other problems, he stated: it lacked a reading at 3000Hz as

⁷ The ALJ noted that although Claimant testified to seeing only Clinical Officer Cossy for her hearing loss, the signature on the treatment note and audiogram is illegible. D&O at 14 n.8; *see also* CX 3 at 4-5.

⁸ Dr. Proto administered the following tests: the Beck Anxiety Inventory (BAI); the Beck Depression Inventory, 2nd edition (BDI-II); the Clinician Administered PTSD Scale for DSM-5 (CAPS-5); Dot Counting Test (DCT); the Minnesota Multiphasic Personality Inventory – 2 Restructured Form (MMPI-2-RF); the Neurobehavioral Symptom Inventory (NSI); the Patient Competency Rating Scale (PCRS); the PTSD Checklist for DSM-5 (PCL-5); the Structured Inventory of Malingered Symptomatology (SIMS); the Test of Memory and Malingered (TOMM); and the World Health Organization Disability Assessment Schedule 2.0 (WHODAS 2.0). D&O at 19-20; EX 6 at 7.

⁹ Dr. Proto reaffirmed his conclusion in an Addendum dated November 22, 2022, after reviewing Claimant’s deposition transcript. EX 7.

required by the American Medical Association's *Guides to the Evaluation of Permanent Impairment* (AMA Guides); the data on the air conduction testing results were confusing; there was no speech reception threshold or word discrimination testing; there was no calibration data; and there was no indication that a sound booth was used. D&O 25-26; EX 9 at 2. Dr. Ranavaya concluded the evaluation did not meet the American National Standards Institute's audiometric standards, the audiogram was invalid, and the results cannot be used to diagnose hearing loss. EX 9 at 3. Therefore, he found Claimant does not have a hearing loss injury. EX 9 at 9-11.

Following referral of Claimant's claim to the Office of Administrative Law Judges (OALJ), the parties opted for adjudication on the record in lieu of an in-person hearing. On May 15, 2024, the ALJ issued a Decision and Order Denying Benefits. D&O 1-41. The ALJ determined Claimant invoked the Section 20(a) presumption, establishing a prima facie case that her psychological injury and her hearing loss are both related to her work in Iraq for Employer. D&O at 31, 38; *see* 33 U.S.C. §920(a). He further found Employer provided sufficient evidence to rebut the presumption as to both claimed injuries. *Id.* at 33, 39. Weighing the evidence as a whole, the ALJ found Claimant did not establish she suffered either alleged injury by a preponderance of the evidence, and he denied benefits. *Id.* at 33-36; 39-41.

Claimant appeals, challenging the ALJ's causation findings as to her psychological injuries and hearing loss. Employer responds, urging affirmance.

Rebuttal

Claimant first contends the ALJ improperly found Employer rebutted the Section 20(a) presumption as it relates to both her alleged psychological injuries and her hearing loss. Claimant's Petition for Review and Brief (Cl. PR) at 12-13, 30. She argues the ALJ erred in finding Dr. Proto's and Dr. Ranavaya's reports constitute substantial evidence to rebut the presumption for each respective injury. *Id.* at 5.

To invoke the Section 20(a) presumption, a claimant must first establish (1) she sustained a harm and (2) an accident occurred or working conditions existed which could have caused or aggravated the harm. *Rose v. Vectrus Sys. Corp.*, 56 BRBS 27, 36 (2022) (Decision on Recon. en banc), *appeal dismissed* (MD Fl. Aug. 24, 2023); *see also Am. Stevedoring Ltd. v. Marinelli*, 248 F.3d 54, 64-65 (2d Cir. 2001). Once the presumption is invoked, as in this case, the burden shifts to the employer to rebut it by producing substantial evidence that the claimant's injuries were not caused, contributed to, or aggravated by her employment. *Rainey v. Director, OWCP*, 517 F.3d 632, 637 (2d Cir. 2008); *O'Kelley v. Dep't of the Army/NAF*, 34 BRBS 39, 41 (2000). The employer's burden at this stage is one of production, not persuasion. *Rainey*, 517 F.3d at 637; *Rose*, 56 BRBS at 35; *Suarez v. Serv. Emps. Int'l, Inc.*, 50 BRBS 33, 36 (2016). The inquiry at

rebuttal concerns whether the employer submitted evidence that could satisfy a reasonable fact-finder that the claimant's injuries are not work-related. *See Marinelli*, 248 F.3d at 65; *see also Newport News Shipbuilding & Dry Dock Co. v. Holiday*, 591 F.3d 219, 225-226 (4th Cir. 2009). A physician's unequivocal opinion that the employee does not suffer from the alleged injury or that no relationship exists between the employee's injury and her employment is sufficient to rebut the presumption. *Sylejmani v. Fluor Conops, Ltd.*, 57 BRBS 25, 31 (2023); *Suarez*, 50 BRBS at 36; *Cline v. Huntington Ingalls, Inc.*, 48 BRBS 5, 6-7 (2013); *O'Kelley*, 34 BRBS at 41-42.

The ALJ found Dr. Proto's report sufficient to rebut the Section 20(a) presumption as to Claimant's alleged psychological injuries. D&O at 33; EX 6. Dr. Proto concluded Claimant's evaluation did not support a psychiatric disorder, D&O at 32-33; EX 6 at 15-17, and this is evidence that could satisfy a reasonable fact-finder that any alleged injury is not work-related. As the ALJ correctly found, Dr. Proto's unequivocal medical opinion that Claimant does not have a psychological injury is sufficient to satisfy Employer's burden of production on rebuttal. *Sylejmani*, 57 BRBS at 31. Therefore, we affirm the ALJ's finding that Employer rebutted the Section 20(a) presumption as to Claimant's psychological injuries. *Suarez*, 50 BRBS at 36; *Cline*, 48 BRBS at 6-7; *O'Kelley*, 34 BRBS at 41-42.

As for Claimant's hearing loss claim, the ALJ found Employer rebutted the presumption with Dr. Ranavaya's report. D&O at 39; *see Sylejmani*, 57 BRBS at 31. Dr. Ranavaya reviewed Claimant's treatment notes and the 2020 audiogram and concluded, while Claimant described a history of pain upon hearing loud noises in the war zone with buzzing and hearing "reduced a bit" episodically, she had no complaints of hearing loss or tinnitus and no evidence of the duration or frequency of any exposure. EX 9 at 1, 4. As sensorineural hearing loss is not "off and on" and does not improve with ear drops,¹⁰ Dr. Ranavaya found Claimant has no hearing loss. EX 9 at 5, 7, 9-10. Based on Dr. Ranavaya's unequivocal opinion, the ALJ rationally found Employer met the burden of production and rebutted the Section 20(a) presumption. *Sylejmani*, 57 BRBS at 31; *see D&O* at 38; EX 9 at 9-10. Therefore, we affirm the ALJ's finding. *Suarez*, 50 BRBS at 36; *Cline*, 48 BRBS at 6-7; *O'Kelley*, 34 BRBS at 41-42.

Weighing of the Evidence

Claimant next asserts the ALJ erred at the weighing stage of the causation analysis for the claimed psychological injuries and hearing loss. Cl. PR at 16. If the employer rebuts the Section 20(a) presumption, as in this case, it no longer applies, and the issue of

¹⁰ Dr. Ranavaya noted that Claimant stated "the medication in the form of eardrops [has] helped her improve[] her hearing complaints." EX 9 at 4.

causation must be resolved based on the evidence in the record, with the claimant bearing the burden of persuasion. *Rainey*, 517 F.3d at 634; *Marinelli*, 248 F.3d at 65; *Santoro v. Maher Terminals, Inc.*, 30 BRBS 171, 175 (1996); *see also Director, OWCP v. Greenwich Collieries [Ondecko]*, 512 U.S. 267 (1994). As a fact-finder, the ALJ has “the discretion to evaluate the credibility of a claimant and to arrive at an independent judgment, in light of medical findings and other evidence.” *Pietrunti v. Director, OWCP*, 119 F.3d 1035, 1042 (2d Cir. 1997). The ALJ also is tasked with assessing the weight and credibility of medical opinions and whether those opinions are rationally based on their underlying documentation. *Brown v. Nat’l Steel & Shipbuilding Co.*, 34 BRBS 195, 201 (2001); *see also Calbeck v. Strachan Shipping Co.*, 306 F.2d 693 (5th Cir. 1962), *cert. denied*, 372 U.S. 954 (1963); *John W. McGrath Corp. v. Hughes*, 289 F.2d 403, 405 (2d Cir. 1961).

When weighing the evidence in its entirety, the ALJ is entitled to evaluate the credibility of all witnesses, weigh the medical evidence, and draw his own inferences and conclusions from the record. *Pietrunti*, 119 F.3d at 1042; *Compton v. Avondale Indus., Inc.*, 33 BRBS 174, 176-177 (1999). 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). However, he must explain his rationale in reaching a decision on the evidence, *Kkunsu v. Constellis Grp./Triple Canopy, Inc.*, 59 BRBS 1, 4-5 (2025), and if the ALJ’s conclusion upon weighing the evidence is rational and supported by substantial evidence, it must be affirmed. *Carswell v. E. Pihl & Sons*, 999 F.3d 18, 27 (1st Cir. 2021), *cert. denied*, 142 S. Ct. 1110 (2022); *Mendoza v. Marine Pers. Co.*, 46 F.3d 498, 500-501 (5th Cir. 1995). The Benefits Review 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. *Sealand Terminals, Inc. v. Gasparic*, 7 F.3d 321, 323 (2d Cir. 1993); *Volpe v. Ne. Marine Terminals*, 671 F.2d 697, 700 (2d Cir. 1982); *Perini Corp. v. Heyde*, 306 F. Supp. 1321, 1325-1326 (D.R.I. 1969).

Psychological Injury

Claimant argues the ALJ erroneously gave greater weight to Employer’s expert’s opinion as it relates to her psychological injuries. Cl. PR at 18. In evaluating the evidence, the ALJ gave little weight to both PCO Wilson’s and Dr. Claire’s opinions.¹¹ He gave

¹¹ To the extent Claimant argues the ALJ erred by failing to defer to her treating physicians’ opinions, we reject it. Cl. PR at 20. Where there are conflicting medical opinions, as here, the ALJ is not required to automatically give “special weight” to the treating physicians’ opinions. *Kkunsu v. Constellis Grp./Triple Canopy, Inc.*, 59 BRBS 1, 4 (2025). Rather, he must consider all relevant evidence, assess the weight and credibility of each opinion, and explain his rationale in reaching a decision on the evidence. *Id.* at 4-5.

controlling weight to Dr. Proto's opinion, and he gave Claimant's testimony about her symptoms little weight. D&O at 33-36. We agree with Claimant's argument that the ALJ's weighing of the evidence on the psychological injury claim cannot be affirmed.

The Administrative Procedure Act (APA) imposes a duty of explanation upon the ALJ requiring all decisions to include a statement of "findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented on the record." 5 U.S.C. §557(c)(3)(A); *Marinelli v. Am. Stevedoring, Ltd.*, 34 BRBS 112, 118 (2000), *aff'd*, 248 F.3d 54 (2d Cir. 2001); *see also* 20 C.F.R. §§702.338, 702.339, 702.348. An ALJ must adequately detail the rationale behind his decision and specify the law and evidence upon which he relied. *Gelinas v. Elec. Boat Corp.*, 45 BRBS 69, 71-72 (2011); *Ballesteros v. Willamette W. Corp.*, 20 BRBS 184, 187 (1988). An ALJ's failure to independently analyze and discuss evidence violates the APA's requirement for a reasonable analysis. *Gelinas*, 45 BRBS at 71-72.

The ALJ identified two reasons for giving little weight to Dr. Claire's medical opinion. D&O at 34. He first stated Dr. Claire did not address inconsistencies between her examination and Claimant's reported symptoms. *Id.* Specifically, the ALJ found that although Claimant told Dr. Claire she struggled with concentration, Dr. Claire reported Claimant had "good" attention and concentration during the evaluation. D&O at 34; CX 3 at 13-14. He then stated "some of the information ... Dr. Claire used as justification for her opinion is inaccurate," pointing out Claimant told Dr. Claire she had a boyfriend but lost interest in the relationship once she returned to Uganda, but she testified and told Dr. Proto that she got married and had children after returning from Iraq. D&O at 34; CX 3 at 14; EX 6 at 12-13.

Conversely, the ALJ gave great weight to Dr. Proto, deeming his opinions detailed, thorough, and substantive, and determining Dr. Proto fully explained how he reached his conclusions. D&O at 35. The ALJ found Dr. Proto was "substantially qualified" to render an opinion, which he formed after reviewing Claimant's record¹² and conducting a thorough video examination, during which he was able to observe and interact with Claimant at length. *Id.* The ALJ also acknowledged Dr. Proto's objective testing of Claimant revealed inconsistencies and suggested malingering and symptom overreporting. D&O at 35; EX 6 at 7-11. He again concluded Dr. Proto fully explained his rationale. D&O at 35.

¹² Dr. Proto considered the records from PCO Wilson and Dr. Claire, records related to the alleged hearing loss, Claimant's deposition transcript, and filings with the Department of Labor. D&O at 35; EX 6 at 1-2; EX 7 at 1. The ALJ also determined "Dr. Proto had a more complete record before him to form his opinion" than did Claimant's doctors. D&O at 35.

Based on the few reasons the ALJ cited, however, we are unable to determine whether substantial evidence supports his decision to give controlling weight to Dr. Proto's opinion.¹³ Here, although the ALJ adequately and thoroughly summarized the medical evidence, upon weighing the evidence, he considered each provider's opinion in isolation and failed to compare Dr. Claire's and Dr. Proto's opinions nor did he explain how the record as a whole supports his ultimate conclusion that Claimant does not have a work-related psychological injury. D&O at 10-12, 14-24, 33-36. For instance, when weighing Dr. Proto's opinion, the ALJ provided only general reasons for why he found him credible: he provided full and detailed explanations, he was able to observe Claimant for an "extended period of time," he performed a "battery" of objective tests, and he was substantially credentialed and qualified. D&O at 35. The ALJ did not provide examples or otherwise explain why or how these reasons justified the "controlling" weight he gave Dr. Proto.

This is especially significant in this case considering Dr. Claire, to whom the ALJ gave minimal weight, also evaluated Claimant in person on multiple occasions and also performed psychological testing – facts the ALJ did not mention when weighing her opinion. D&O at 12, 34; EX 6 at 6; JX 4 at 11 (transcript p. 40). Instead, the ALJ analyzed Dr. Claire's medical report as if in a vacuum, discrediting it due to one cited inconsistency (Claimant's complaints of poor concentration compared to Dr. Claire's indication Claimant's concentration during the evaluation was "good"), one negative inference

¹³ With regard to PCO Wilson's opinion, the ALJ noted he completed the August 2019 questionnaire after only one evaluation of Claimant when he did not yet have an ongoing treatment relationship with Claimant. D&O at 33. The ALJ also noted the questionnaire was "cursory" and did not clarify how PCO Wilson formed his opinions or diagnosed Claimant with PTSD and depression; it simply provided a summary of her subjective complaints. *Id.* The ALJ also was unsure to what extent Claimant's uncle, who was in the room with her, contributed any information during her initial visit with PCO Wilson. *Id.* Like the questionnaire, he found PCO Wilson's treatment notes merely reported Claimant's subjective symptoms at each visit without discussing how he arrived at his diagnosis, indicating he understood the traumatic events Claimant experienced, or showing he considered the potential of malingering. *Id.* at 33-34. For these reasons, the ALJ found PCO Wilson's opinion "poorly documented" and "not well supported." *Id.* at 34. Because the ALJ also gave PCO Wilson's opinion less weight as it was "contradicted by . . . Dr. Proto's opinion," *id.*, and we are remanding the case for the ALJ to reconsider Dr. Proto's opinion and the other relevant evidence, we do not affirm the ALJ's discrediting of PCO Wilson's opinion.

without supporting facts (Dr. Claire's failure to "address the contrast between Claimant's presentation on examination and her self-report of symptoms"), and one cited inaccuracy (Claimant's reported loss of interest in having a boyfriend upon her return to Iraq compared to her subsequent marriage). D&O at 34.

The ALJ's evaluation of Claimant's credibility is also problematic. D&O at 36. The ALJ provided only two reasons for giving Claimant's testimony little weight: 1) the results of Dr. Proto's objective testing and his "opinion that her self-report reflected non-credible answers and the exaggeration of symptoms;" and 2) Dr. Claire's indication that Claimant's concentration upon examination was "good," despite self-reports of poor concentration. *Id.* The ALJ failed to address Dr. Claire's psychological testing results or Claimant's reporting of traumatic events or explain why those war zone experiences -- which Employer does not directly dispute and the ALJ did not question -- did not lead to the types of symptoms Claimant alleged and Dr. Claire accepted. Instead, he essentially adopted Dr. Proto's credibility finding instead of making his own, and he relied on one discrepancy in Dr. Claire's report to support his credibility finding.

The Board is not bound to accept the ultimate finding or inference if the decision discloses that it was reached in an invalid manner, *Howell v. Einbinder*, 350 F.2d 442, 444 (D.C. Cir. 1965), or if we are unable to conscientiously conclude that substantial evidence supports the decision. *Goins v. Noble Drilling Corp.*, 397 F.2d 392, 394 (5th Cir. 1968). A finding lacking the support of substantial evidence is not in accordance with law and must be set aside. *Director, OWCP v. Gen. Dynamics Corp. [Fantucchio]*, 787 F.2d 723, 725 (1st Cir. 1986). As the ALJ did not independently analyze and discuss the evidence, we are unable to conscientiously conclude substantial evidence supports the ALJ's decision. *Goins*, 397 F.2d at 394; *Gelinas*, 45 BRBS at 71-72. Therefore, we vacate the ALJ's finding that Claimant does not have a work-related psychological injury and his denial of benefits and remand the case for further consideration.

On remand, the ALJ must compare and reweigh the evidence, including Claimant's credibility, and address whether a preponderance of the evidence establishes that Claimant has a work-related psychological condition. If the ALJ identifies relevant inconsistencies in any of the medical evidence or Claimant's reporting and testimony, he must specify which inconsistencies he relies on. *Gelinas*, 45 BRBS at 71-72. When there are conflicting medical opinions regarding disability or causation, the ALJ must assess the weight and credibility of each opinion and explain his rationale before reaching a decision on the evidence as a whole.¹⁴ *Kkunsu*, 59 BRBS at 4-5.

¹⁴ Asserting (four times in three pages) that we categorically "may not reweigh evidence[.]" our dissenting colleague does not point out any error in our reasoning but instead contends we should not have entertained Claimant's arguments that the ALJ erred

Hearing Loss Claim

Next, Claimant contends the ALJ improperly weighed the evidence as it relates to her hearing loss claim. Cl. PR at 36. The ALJ found Claimant failed to provide evidence that a “licensed or certified audiologist” conducted the audiogram, as the signature on the audiogram is not legible, and Claimant failed to establish Senior Clinical Officer Cossy administered it. D&O at 39; CX 3 at 5; CX 4; JX 4 at 12-13; *see* 20 C.F.R. §702.441(b). The ALJ also found the record lacked details regarding the audiometer’s calibration or specifications, as well as the environment and conditions in which the testing was conducted. D&O at 40; CX 3 at 5. As a result, the ALJ gave little weight to Claimant’s hearing loss evidence. D&O at 40.

Rather, the ALJ gave controlling weight to Dr. Ranavaya’s opinion. He found Dr. Ranavaya opined the 2020 audiogram failed to comply with the AMA *Guides* and, therefore, could not constitute reliable evidence of hearing loss. D&O at 40; EX 9 at 6. The ALJ also credited Dr. Ranavaya’s conclusion that sensorineural hearing loss, which is permanent in nature, does not improve with ear drops despite Claimant’s report of improved hearing since she was prescribed ear drops. D&O at 4; EX 9 at 4-5; JX 4 at 12.

in weighing the evidence in the first place. Our colleague, however, fundamentally misconstrues our standard of review of the inferences an ALJ draws from a cold record like the one before us. It is not so toothless that we cannot question an ALJ’s reasoning in weighing facts. Quite the opposite: when that weighing is called into question, we can only affirm reasonable conclusions drawn in consideration of the record as a whole. *Universal Camera Corp.*, 340 U.S. at 477 (substantial evidence is “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.”) (citation omitted); *Pietrunti v. Director, OWCP*, 119 F.3d 1035, 1042 (2d Cir. 1997) (witness credibility must be evaluated “in light of medical findings and other evidence” in the case.). Here the ALJ, for example, ignored the majority of Dr. Claire’s detailed report and discredited her opinion on two alleged facts -- she misreported one symptom and misstated Claimant’s dating history -- that logically cannot support such weight. A discrepancy can be real and still be immaterial; too slight to bear on whether a witness’s account is true. When such broad adverse finding rests on discrepancies of this kind, the problem is not that the ALJ weighed the evidence differently than we would, but that the finding lacks the rational, record-based support the law requires. *Universal Camera Corp.*, 340 U.S. at 477. And that requires remand. *Id.*

For an audiogram to be determinative of a claimant's hearing loss, it must comply with the *AMA Guides* criteria in accordance with Section 8(c)(13)(E)¹⁵ of the Act, 33 U.S.C. §908(c)(13)(E), and meet other criteria of 20 C.F.R. §702.441(d).¹⁶ See *R.H. [Harris] v. Bath Iron Works Corp.*, 42 BRBS 6, 8-9 (2008). Because the ALJ rationally found the audiogram Claimant submitted does not meet the criteria enunciated in the Act and regulations, we affirm his finding that the audiogram failed to establish the extent of any hearing loss. D&O at 39-40; *Steevens v. Umpqua River Navigation*, 35 BRBS 129, 133 (2001). Although a ratable impairment under the *AMA Guides* is not necessary for an award of medical benefits for work-related hearing loss, *Ingalls Shipbuilding, Inc. v. Director, OWCP [Baker]*, 991 F.2d 163, 166 (5th Cir. 1993); *Weikert v. Universal Mar. Serv. Corp.*, 36 BRBS 38, 39 (2002), the ALJ rationally found Claimant did not establish a work-related hearing loss by the preponderance of the evidence as no medical provider linked Claimant's alleged hearing loss to her work for Employer. D&O at 40. Therefore, we affirm his finding that Claimant's alleged hearing loss is not work-related. *Carswell*, 999 F.3d at 27; *Gasparic*, 7 F.3d at 323; *Volpe*, 671 F.2d at 700; *Heyde*, 306 F. Supp. at 1325-1326.

Accordingly, we vacate the ALJ's Decision and Order Denying Benefits as to the cause of Claimant's psychological injury claim and remand the case for consideration

¹⁵ 33 U.S.C. §908(c)(13)(E) states: "Determinations of loss of hearing shall be made in accordance with the guides for the evaluation of permanent impairment as promulgated and modified from time to time by the American Medical Association."

¹⁶ 20 C.F.R. §702.441(d) states:

In determining the loss of hearing under the Act, the evaluators shall use the criteria for measuring and calculating hearing impairment as published and modified from time-to-time by the American Medical Association in the *Guides to the Evaluation of Permanent Impairment*, using the most currently revised edition of this publication. In addition, the audiometer used for testing the individual's threshold of hearing must be calibrated according to current American National Standard Specifications for Audiometers. Audiometer testing procedures required by hearing conservation programs pursuant to the Occupational Safety and Health Act of 1970 should be followed (as described at 29 CFR 1910.95 and appendices).

consistent with this opinion. In all other regards, we affirm the ALJ's Decision and Order Denying Benefits.

SO ORDERED.

JONATHAN ROLFE, Acting Chief
Administrative Appeals Judge

GLENN E. ULMER
Administrative Appeals Judge

JONES, Administrative Appeals Judge, concurring and dissenting:

I concur with the majority's decision to affirm the ALJ's findings that Claimant does not have a work-related hearing loss and that Employer rebutted the Section 20(a) presumption relating to Claimant's alleged psychological injury. I respectfully dissent from their holding that the ALJ erred in weighing the evidence for her psychological injury claim.

Claimant contends the ALJ erred in weighing PCO Wilson's opinion, Dr. Claire's opinion, Dr. Proto's opinion, and Claimant's testimony. Contrary to the majority's efforts to scrutinize the rationale underlying the ALJ's analysis, the concerns Claimant actually raised in her brief merely, but repeatedly, ask the Board to "reconsider the weight" given the evidence.

Regarding PCO Wilson's opinion, the ALJ gave little weight to PCO Wilson's questionnaire rendered after his first meeting with Claimant, stating it was "cursory" and did not clarify how he formed his opinion or diagnosed Claimant with PTSD and depression; it simply provided a summary of Claimant's subjective complaints. D&O at 33. The ALJ also gave little weight to PCO Wilson's treatment records because they merely reiterated Claimant's subjective symptoms at each visit, without discussion on how the symptoms or any clinical findings supported his diagnosis; the reports also did not discuss the traumatic events Claimant experienced, their connection to the diagnosis, or whether he considered malingering. *Id.* at 33-34. The reasons given by the ALJ are sufficient to find PCO Wilson's opinion "poorly documented," "not well supported," and

deserving of little weight. *Id.* at 34.

On appeal, Claimant “respectfully request[s] the Board to reconsider the weight given to PCO Wilson’s professional assessments by the lower court” because “PCO Wilson is a licensed professional with significant experience; his initial questionnaire “provides a necessary foundation for understanding the Petitioner’s condition;” “family members often provide relevant context and support during initial evaluations, so their presence “should not diminish the validity of the assessment;” and PCO Wilson made the same diagnosis repeatedly after examining Claimant more times than did Dr. Proto. Claimant also asserts various reasons that her treating physician PCO Wilson’s opinion is entitled to deference. Cl. PR at 20-22.

None of these points or the others made by Claimant regarding the weight the ALJ gave to PCO Wilson’s opinion raise valid legal arguments disputing the ALJ’s findings. Rather, they raise reasons why the ALJ should have given PCO Wilson’s opinion more weight:¹⁷

In conclusion, the opinions and diagnoses provided by PCO Wilson should not have been given little weight by the lower court due to perceived minor procedural shortcomings. His professional expertise, consistent diagnosis over multiple visits, and standard reliance on subjective symptoms provide a credible basis for his findings. We respectfully request [] the Board to reconsider the weight given to PCO Wilson’s opinions and acknowledge the legitimacy of his diagnoses in the context of Petitioner’s overall treatment and condition.

Cl. PR at 21-22.

We may not reweigh the evidence. *Gasparic*, 7 F.3d at 323; *Volpe*, 671 F.2d at 700; *Heyde*, 306 F. Supp. at 1325-1326.

Regarding Dr. Claire’s opinion, the ALJ gave little weight to it because she failed to address the inconsistencies between Claimant’s reported symptoms and Claimant’s demeanor in the examination. D&O at 34. Specifically, Claimant reported poor concentration and problems with focusing for long periods of time, but Dr. Claire found

¹⁷ Although Claimant asserts “[t]he acceptance of Petitioner’s subjective complaints by PCO Wilson is in line with standard psychological practices, where patient self-reporting is a critical component of the diagnostic process[.]” Cl. PR at 21, Claimant overlooks that the ALJ “gives little weight to Claimant’s testimony as to the cause, nature, scope, and severity of her psychological symptoms.” D&O at 36.

Claimant had good concentration and attention and did not have “thought interference” or “perceptual disturbances.” D&O at 34; CX 3 at 13-14. Dr. Claire then diagnosed Claimant with PTSD and depression based on what primarily appears to be subjective test answers without addressing the conflict between Claimant’s appearance and behavior at the evaluation and her test responses. CX 3 at 13-15. The ALJ also noted a factual discrepancy which, while not particularly relevant to whether Claimant has a work injury, is potentially indicative of either misinformation or inaccurate history-taking. D&O at 34.

Similar to her approach to the weight the ALJ gave PCO Wilson’s opinion, Claimant asserts “[t]he lower court erred when it assigned little weight to the opinion of Dr. Claire. Based on the evidence submitted, the Petitioner respectfully requests the Board to reconsider the weight given to Dr. Claire’s opinion by the lower court.” Cl. PR at 22. Claimant then proceeds to list a number of reasons why Dr. Claire’s opinion was deserving of more weight. A sampling of those reasons include: Claimant’s symptoms could vary, a “holistic review” of Claimant’s evidence is consistent with Dr. Claire’s opinion, and Dr. Claire’s professional credentials and experience (like those of PCO Wilson) are entitled to “significant weight” and should not be discounted “due to isolated inconsistencies that can be reasonably explained with the broader context of the Petitioner’s life and symptom variability.” *Id.* at 22-24.

The ALJ’s explanation for giving little weight to Dr. Claire’s opinion is supportable. Claimant, again, merely requests we reweigh the evidence:

In light of these arguments, it is evident that Dr. Claire’s opinion has been unjustly discounted by the lower court. The variability of psychological symptoms, the context of personal history, and the professional credibility of Dr. Claire all support the validity of her assessment. We respectfully request [] the Board to reconsider the weight given to Dr. Claire’s opinion and acknowledge the comprehensive nature of her evaluation.

Cl. PR at 23-24.

We may not reweigh the evidence. *Gasparic*, 7 F.3d at 323; *Volpe*, 671 F.2d at 700; *Heyde*, 306 F. Supp. at 1325-1326.

Claimant also asserts Dr. Proto’s opinion is not entitled to controlling weight because of its numerous “problems.” Cl. PR at 24-29. Those “problems” include Dr. Proto did not physically examine Claimant; Dr. Proto examined Claimant only once via video; Dr. Proto’s exhibited “confirmation bias” and “selective interpretation of evidence;” Dr. Proto did not produce test reports or transcripts; Dr. Proto’s report is “superficial, premeditated, lacks premise, ill-reasoned, and conclusory.” *Id.* at 26. Claimant goes on to raise several other reasons why Dr. Proto’s report should not have been afforded

controlling weight by the ALJ, Claimant's experts are entitled to more weight, and she is entitled to benefits:

Considering these arguments, the Petitioner posits that Dr. Proto's opinion should not have been given controlling weight by the lower court. In contrast, the comprehensive, contextually grounded assessments by PCO Wilson and Dr. Claire, who have had sustained interactions with the Petitioner, offer a more reliable and accurate reflection of the Petitioner's psychological condition. Therefore, the Petitioner respectfully urges the Board to consider these factors and recognize the limitations and potential biases in Dr. Proto's evaluation in reversing the decision of the lower court.

Cl. PR at 29.

We may not reweigh the evidence. *Gasparic*, 7 F.3d at 323; *Volpe*, 671 F.2d at 700; *Heyde*, 306 F. Supp. at 1325-1326.

Lastly, with regard to her own testimony, Claimant acknowledges:

Questions of witness credibility, including those concerning medical witnesses, are for the administrative law judge as the trier-of-fact. *Calbeck v. Strachan Shipping Co.*, 306 F.2d 693 (5th Cir. 1962), *cert. denied*, 372 U.S. 954 (1963); *John W. McGrath Corp. v. Hughes*, 289 F.2d 403 (2d Cir. 1961). On appeal, the Board will not interfere with the administrative law judge's credibility determinations unless they are "inherently incredible or patently unreasonable." *Cordero v. Triple A Machine Shop*, 580 F.2d 1331, 1335, 8 BRBS 744, 747 (9th Cir. 1978), *aff'g* 4 BRBS 284 (1976), *cert. denied*, 440 U.S. 911 (1979).

Cl. PR at 29-30. Nonetheless, Claimant believes the ALJ erred in assigning her testimony little weight and requests the following:

[T]he Petitioner's testimony regarding her psychological symptoms should be given more weight, considering the inherent subjectivity and variability of such conditions. The reliance on isolated findings from objective testing and perceived inconsistencies does not provide a comprehensive picture of the Petitioner's psychological state. We respectfully request the Board to

reconsider the weight given to the Petitioner's testimony and to acknowledge the complexity of evaluating psychological symptoms.

Cl. PR at 30.

We may not reweigh the evidence. *Gasparic*, 7 F.3d at 323; *Volpe*, 671 F.2d at 700; *Heyde*, 306 F. Supp. at 1325-1326.

In the end, the ALJ gave little weight to Claimant's testimony, not generally, but "as to the cause, nature, scope, and severity of her psychological symptoms." D&O at 36. Dr. Proto's subjective and objective testing demonstrated Claimant's self-reporting reflected non-credible answers and exaggerated symptoms. *Id.* The ALJ found Dr. Proto's medical opinion regarding causation to be fully explained, as it is "thorough [and] substantive." D&O at 35. The ALJ credited Dr. Proto's full review of the medical evidence, his credentials, and his objective and subjective testing, and he gave Dr. Proto's opinion controlling weight. *Id.* Having given greater weight to Dr. Proto's opinion— over that of Claimant's physicians – and noting Claimant's testimony was of limited credibility on the matter of the cause and extent of her symptoms – the ALJ found Claimant did not prove the existence of a work-related psychological condition by a preponderance of the evidence. His reasons are fully explained.

I would affirm the ALJ's weighing of the evidence as it is supported by the evidence, and we may not reweigh the evidence. *Gasparic*, 7 F.3d at 323; *Volpe*, 671 F.2d at 700; *Heyde*, 306 F. Supp. at 1325-1326.

MELISSA LIN JONES
Administrative Appeals Judge