U.S. Department of Labor

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

BRB No. 24-0159

AHMAD MANSUR Claimant-Petitioner v. WORLDWIDE LANGUAGE RESOURCES and ALLIED WORLD NATIONAL ASSURANCE COMPANY c/o BROADSPIRE Employer/Carrier-Respondents	)	**NOT-PUBLISHED** DATE ISSUED: 12/09/2025 DECISION and ORDER

Appeal of the Decision and Order Denying Benefits of Evan H. Nordby, Administrative Law Judge, United States Department of Labor.

Ahmad Mansur, Las Vegas, Nevada.

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

PER CURIAM:

Claimant appeals, without representation, Administrative Law Judge (ALJ) Evan H. Nordby's Decision and Order Denying Benefits (2019-LDA-01492) 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). In an appeal a claimant files without representation, the Benefits Review Board

reviews the ALJ's decision to determine if the findings of fact and conclusions of law 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, 361-62 (1965).

Claimant worked for Employer as a field translator or linguist in Afghanistan from August 20, 2011, to September 19, 2012. Joint Exhibit (JX) 19 at 1. He allegedly sustained a right knee injury[2] in January 2012 and psychological injuries the same year while working for Employer.[3] JXs 6 at 7, 9 at 73, 96-98, 133. The ALJ found Claimant invoked the Section 20(a) presumption of compensability, 33 U.S.C. §920(a), linking his right knee and psychological injuries to his employment and found Employer rebutted the presumption for both injuries. Weighing the evidence, the ALJ found Claimant failed to establish his right knee and psychological injuries are work-related. Therefore, he denied benefits.[4]

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[1] This case arises within the jurisdiction of the United States Court of Appeals for the Ninth Circuit because the office of the district director who filed the ALJ's decision is located in San Francisco, California. 33 U.S.C. §921(c); *Glob. Linguist Sols., LLC v. Abdelmeged*, 913 F.3d 921, 922 (9th Cir. 2019); *see also McDonald v. Aecom Tech. Corp.*, 45 BRBS 45, 47 (2011).

[2] Claimant stated he fast roped from a helicopter during a nighttime mission in January 2012. JX 9 at 96-98. When he landed on the ground, a soldier wearing body armor and carrying equipment fell on top of him and hit his right leg causing his toenail to bleed. *Id.* at 98. Claimant stated he struggled to walk after the impact but needed to travel twelve kilometers, so two people supported him on either side to complete the mission. *Id.* at 98-99. Upon returning to the base, he went to the hospital where they surgically removed one of his toenails and wrapped his knee. *Id.* at 100-101. Claimant returned to the United States in March 2014 but did not receive treatment for his right knee injury until February 20, 2020. HT at 40; JX 20 at 3.

[3] Claimant alleges he has experienced psychological symptoms of flashbacks, nightmares, suicidal thoughts, and anger since 2012 from "serving overseas [and] seeing blood [and] death all the time." JX 6 at 7.

[4] Claimant allegedly sustained left leg, low back, and psychological injuries working as a field translator or linguist with Mission Essential Personnel in Afghanistan from July 2009 to April 2011 and again from July 2013 to March 2014. JXs 8 at 36, 14 at 51-52. However, Claimant settled those claims with Mission Essential Personnel in November 2016, and they are not at issue here. HT at 29; JX 10 at 19, 35.

On appeal, Claimant generally challenges the denial of benefits.[5] Employer and its Carrier (Employer) have not filed a response brief.

Rebuttal

Once a claimant invokes the Section 20(a) presumption, 33 U.S.C. §920(a), linking his injuries to his work, the burden shifts to the employer to rebut the presumption with substantial evidence that is "specific and comprehensive enough" to sever the connection between the claimant's condition and his employment. *Haw. Stevedores, Inc. v. Ogawa*, 608 F.3d 642, 651 (9th Cir. 2010); *Ramey v. Stevedoring Servs. of Am.*, 134 F.3d 954, 959 (9th Cir. 1998); *Rose v. Vectrus Sys. Corp.*, 56 BRBS 27, 31 (2022) (en banc), *appeal dismissed* (M.D. Fla. Aug. 24, 2023). The inquiry at rebuttal concerns "whether the employer submitted evidence that could satisfy a reasonable fact finder that the claimant's injury was not work-related," and it is a burden of production only. *Ogawa*, 608 F.3d at 651. A physician's unequivocal opinion that no relationship exists between the alleged injury and a claimant's employment is sufficient to rebut the presumption. *Duhagon v. Metro. Stevedore Co.*, 31 BRBS 98, 100 (1997), *aff'd*, 169 F.3d 615 (9th Cir. 1999).

Employer submitted the medical opinions of Dr. Mark Rosen and Dr. Stuart Meisner to rebut the presumption that Claimant's right knee and psychological injuries are work-related, respectively. JXs 16, 17. The ALJ first considered Dr. Rosen's opinion regarding Claimant's right knee injury. Decision and Order (D&O) at 9-10, 18. Dr. Rosen, an orthopedic surgeon, examined Claimant on December 22, 2022, and diagnosed him with right knee post-meniscectomy, chondromalacia patellae, and osteoarthritis. JX 17 at 9. However, he opined Claimant's injury is not related to his work for Employer because there is no medical documentation from the time when Claimant asserts the injury occurred in 2012 and the time when Claimant first received a diagnosis of a right knee meniscal tear and treatment in 2020. *Id.* at 10. Dr. Rosen explained Claimant's medical records show he saw several medical providers in 2015 who documented no right knee complaints or symptoms. *Id.* at 9. He also opined Claimant could not have sustained a right knee meniscus tear in 2012 and continue to perform the activity required of him while working in Afghanistan until 2014. *Id.* at 10. Thus, Dr. Rosen concluded Claimant's right knee injury is unrelated to his work for Employer. *Id.*

Dr. Meisner, a clinical psychologist, examined Claimant on September 12, 2018, at Employer's request. JX 16. He noted Claimant reported feeling depressed, guilty,

[5] We affirm, as unchallenged on appeal, the ALJ's finding Claimant invoked the Section 20(a) presumption regarding both alleged injuries. *See Scalio v. Ceres Marine Terminals, Inc.*, 41 BRBS 57, 58 (2007); D&O at 16-17.

paranoid, and irritable, and described struggling with memory, concentration, and attention. *Id.* at 5-6. However, he opined Claimant showed overreporting on the psychological evaluations, exaggeration on the cognitive impairments test, delayed onset of symptoms, and contradictory behavioral evidence.[6] *Id.* at 22, 26-29. Dr. Meisner opined Claimant's psychological evaluation results indicated he does not have post-traumatic stress disorder (PTSD) or depression but, rather, is exaggerating his symptoms. *Id.* at 19-22. He stated it is "plausible" Claimant has mild to moderate depression based on his facial expressions and diminished functioning but opined there is no evidence to support a diagnosis. *Id.* at 29.

The ALJ found the opinions of Drs. Rosen and Meisner sufficient to rebut the Section 20(a) presumption for each injury because they are "substantial and comprehensive enough" to meet Employer's burden of production. D&O at 19. Because their opinions are the kind of evidence "a reasonable mind might accept as adequate" to support the conclusion that the injuries are not related to the employment, they constitute substantial evidence that is legally sufficient to rebut the presumption. *See Ogawa*, 608 F.3d at 651; *Rose*, 56 BRBS at 31. Therefore, we affirm the ALJ's finding Employer rebutted the Section 20(a) presumption regarding Claimant's right knee and psychological injuries. D&O at 19.

Weighing the Evidence

When an employer succeeds in rebutting the Section 20(a) presumption, it falls out of the case and the ALJ must weigh the record as a whole to assess whether the claimant's injury is work-related. *Ogawa*, 608 F.3d at 651. This determination is a question of fact with the claimant bearing the burden of showing, by the preponderance of the evidence, that his injuries were caused or aggravated by his working conditions. *Id.*; *see also Director, OWCP v. Greenwich Collieries* [*Ondecko*], 512 U.S. 267, 281 (1994). As the factfinder, the ALJ is entitled to evaluate the credibility of all witnesses, including physicians, weigh the medical evidence, and draw his own inferences and conclusions from the record. *See Ogawa*, 608 F.3d at 652-653. Moreover, the ALJ is not bound to accept the opinion or theory of any particular medical examiner. *Walker v. Rothschild Int'l Stevedoring Co.*, 526 F.2d 1137, 1140-1141 (9th Cir. 1975). The Board may not reweigh the evidence, draw other inferences from the record, or substitute its views for those of the

[6] Dr. Meisner conducted the Minnesota Multiphasic Personality Inventory-2-Restructured Form, Beck Depression Inventory-II, Beck Anxiety Inventory, and Word Memory Test. JX 16 at 19-21.

ALJ. *Rhine v. Stevedoring Servs. of Am.*, 596 F.3d 1161, 1165 (9th Cir. 2010); *Sestich v. Long Beach Container Terminal*, 289 F.3d 1157, 1159 (9th Cir. 2002).

Physical Injury

The ALJ considered Claimant's testimony and the medical opinions of Dr. William Holmes and Dr. Rosen, who each opined Claimant's right knee injury was not work-related. D&O at 19-20; JXs 13, 20. The ALJ credited their opinions over Claimant's testimony and therefore found Claimant failed to establish his right knee injury is work-related. D&O at 20.

The ALJ found Claimant consistently described the events leading to his right leg injury. *Id.* at 19-20. He noted Employer had no record of the injury but attributed the lack of corroborating documentation to a lapse in reporting or record-keeping because Claimant received treatment at an Army hospital instead of a clinic paid for or provided by Employer.[7] *Id.* The ALJ also observed Claimant testified he called his manager two days later, but his manager said he already knew of the injury and informed him someone was going to replace him. *Id.*; JX 9 at 102. The ALJ rationally determined "an intermediary" notified Employer of Claimant's injury resulting in the injury being improperly documented. D&O at 20; *see Ogawa*, 608 F.3d at 652-53.

However, while the ALJ credited Claimant's testimony that the 2012 helicopter incident occurred, he discredited Claimant's statements about the condition of his right knee because he found "a great deal of time" had elapsed between the incident and the treatment Claimant received on February 20, 2020. D&O at 20; JX 20 at 3. At the hearing, Claimant tried to explain the lack of treatment, HT at 50-51, but the ALJ found Claimant's medical records indicated his right knee was asymptomatic through 2015. D&O at 15; JXs 10 at 12, 13 at 6. Therefore, the ALJ rationally discounted Claimant's testimony regarding the origin of his right knee condition. *See Ogawa*, 608 F.3d at 652-53; D&O at 14-15.

Considering the medical evidence, the ALJ accurately noted Dr. Holmes opined Claimant's right knee condition began in 2016 at the earliest and, similarly, Dr. Rosen

[7] Claimant said he spoke with his manager about the injury and filled out paperwork. JX 9 at 102. At the hearing, Claimant said Employer told him it never received the paperwork. HT at 25-26. Ms. Robyn Dickenson, former director of human resources for Employer, stated Employer did not have any medical file or record of Claimant reporting any medical conditions. JX 22 at 10. Although Employer purges its records every seven years, she stated that when Claimant contacted Employer in 2017, it still would have had any records generated for the 2012 injury. *Id.* at 18.

opined Claimant's condition began after September 20, 2015.[8] D&O at 20; JXs 17 at 9, 20 at 23. Dr. Holmes stated Claimant had a magnetic resonance imaging (MRI) scan of his lumbar spine in "approximately" 2016, "prior to the development of his right leg lower extremity pain." JX 20 at 23. On October 14, 2020, after another MRI scan, Dr. Holmes opined he was "unable to explain" Claimant's continued complaints of pain. *Id.* at 3, 6, 12.

Dr. Rosen also noted Claimant first received a diagnosis of a right knee meniscal tear when he underwent arthroscopic surgery on February 20, 2020. JX 17 at 10. He opined Claimant's right knee injury "must have been sustained" after Claimant saw Dr. Stark on September 22, 2015, because none of Claimant's medical records document any right knee symptoms or complaints prior to that time. *Id.* at 9-10. Further, he opined it is unexplained how Claimant could have sustained a right knee injury in 2012 and returned to work for Employer in Afghanistan for two more years and therefore concluded Claimant's right knee condition is not related to his work for Employer. *Id.*

The ALJ credited Dr. Rosen's opinion because he has "stellar credentials," "conducted a comprehensive review of Claimant's medical records," and focused his opinion on Claimant's "injury type and work history."[9] D&O at 20. Because the "sole causal link" between Claimant's injury and work accident is Claimant's testimony, which the ALJ discredited, the ALJ found the evidence "as a whole" indicates Claimant's right knee condition occurred after he returned to the United States. *Id.* Therefore, the ALJ

[8] On February 20, 2020, Dr. Holmes, a medical doctor whose credentials are not in the record, performed a right knee arthroscopy with meniscectomy to fix a meniscus tear, but he did not render an opinion on the cause of the injury. JX 20 at 3, 28. On December 13, 2020, Dr. Rosen examined Claimant and reviewed his medical records. JX 13. He noted Claimant denied right knee pain to Dr. James Stark during his physical examination on September 22, 2015, for his alleged left knee and low back injuries arising from his work with Mission Essential Personnel. JX 13 at 3, 17 at 10.

[9] The ALJ recognized Dr. Holmes did not render an opinion on the issue of causation. D&O at 20; JX 20 at 23. However, he found Dr. Holmes's opinion that Claimant's right knee injury began in 2016 based on MRI scans is consistent with Dr. Rosen's persuasive opinion that Claimant's right knee injury began after September 2015 based on Claimant's medical records. *See Haw. Stevedores, Inc. v. Ogawa*, 608 F.3d 642, 651 (9th Cir. 2010) (the ALJ is entitled to weigh the evidence and draw his own inferences from it); D&O at 20; JXs 17 at 9-10; 20 at 23.

permissibly found Claimant's right knee injury is not work-related. *See Ondecko*, 512 U.S. at 281; *Ogawa*, 608 F.3d at 652-653; *Rhine*, 596 F.3d at 1165; D&O at 20.

Psychological Injury

Regarding Claimant's psychological injury, the ALJ considered Claimant's testimony and the medical opinions of Dr. Shital Hubli, Dr. Mark Kimmel, and Dr. Meisner. D&O at 20-23. Drs. Hubli and Kimmel opined Claimant has PTSD and depression related to his work for Employer, while Dr. Meisner opined Claimant has no mental disorder. JXs 11 at 12-13, 12 at 20, 16 at 27. The ALJ discredited Claimant's testimony as contradictory and gave "little weight" to the opinions of Drs. Hubli and Kimmel. D&O at 15, 21. Giving "greater weight" to Dr. Meisner's opinion, the ALJ found Claimant failed to establish he has a work-related psychological injury. *Id.* at 22-23.

Claimant testified he began experiencing psychological symptoms such as flashbacks, nightmares, and suicidal thoughts in 2012 while he was in Afghanistan. JXs 6 at 7; 9 at 73, 133. However, the ALJ accurately noted Claimant reported he was in "good" psychological health and had no prior psychological issues when he went back to work for Mission Essential Personnel in July 2013, after he left his employment with Employer. D&O at 4-5, 15, 17; JX 8 at 64. The ALJ further recognized Claimant signed a Psychological Examination Form in 2013 with Mission Essential Personnel indicating he had not had nightmares about "frightening, horrible, or upsetting" experiences in the past month. D&O at 4-5; JX 14 at 44. Consequently, the ALJ found Claimant's statements about experiencing psychological symptoms "contradicted" by his "consistent attestation of good psychological health." D&O at 15. Therefore, the ALJ rationally discredited Claimant's testimony as to the condition of his psychological injury. *See Ogawa*, 608 F.3d at 652-53; D&O at 15.

On March 11, 2015, Dr. Hubli diagnosed Claimant with "significant" PTSD based on his symptoms of depressed mood, irritability, poor appetite, disturbed sleep, and nightmares, as well as major depression based on the Hamilton Scoring Scale.[10] JX 11 at 15-20. She referred him to a psychiatrist because she could treat Claimant only for his physical injuries related to his employment with Mission Essential Personnel. JX 11 at 20-21. Claimant testified Mission Essential Personnel's insurance carrier denied the referral, but then he settled his claims with Mission Essential Personnel. JX 9 at 82, 134.

[10] Dr. Hubli is a family physician. JX 9 at 82. Claimant saw Dr. Hubli periodically from July 30, 2014, to August 8, 2015, for his left leg and back injuries related to his work with Mission Essential Personnel. JX 11 at 1-3. He testified Dr. Hubli would only treat him for those injuries. JX 9 at 107.

On December 1, 2015, Dr. Kimmel diagnosed Claimant with chronic, partially resolved PTSD and moderate major depressive disorder based on diagnostic criteria and his interview with Claimant.[11] JX 12 at 19-20. Claimant reported to Dr. Kimmel that in November 2009, he was in a tank that "was blown up." JX 12 at 3. He stated the explosion lifted the tank off the ground, he injured his back and neck, the driver of the tank lost his leg, and a couple of other soldiers were injured. *Id.* Based on Claimant's account, Dr. Kimmel opined Claimant's psychological conditions are "cumulative" caused by his work for Employer in Afghanistan. *Id.* at 20-21. However, the ALJ observed Claimant did not describe this incident at either of his two depositions or at the hearing. D&O at 22. He noted this incident "would be memorable to Claimant" considering he injured his back in 2014. *Id.* In addition, he noted Claimant stated he was "never" physically injured during the incidents involving suicide bombers or Improvised Explosive Devices (IEDs) in Afghanistan. *Id.* Therefore, he permissibly found Claimant "fabricated" the tank incident to convince Dr. Kimmel of his psychopathology. *See Ogawa*, 608 F.3d at 652-53; *Rhine*, 596 F.3d at 1165; D&O at 22.

In contrast, Dr. Meisner acknowledged Claimant's reported psychological symptoms but opined Claimant does not suffer from PTSD or depression because his psychological performance was exaggerated. JX 16 at 19-22. He explained that mental health professionals rely upon three sources to diagnose mental disorder: an account of symptoms and impairments during the interview, symptoms reported in psychological testing, and clinical observation. *Id.* at 26-27. Because Claimant "grossly exaggerate[d]" impairment, he stated he cannot rely on self-reporting "in either narrative or questionnaire form." *Id.* at 26. He also explained he cannot rely on clinical observations to diagnose Claimant because those are tied to self-reporting to some degree. *Id.* at 27. Dr. Meisner concluded there is "no substantial evidence" that Claimant has PTSD or depression related to his work with Employer. *Id.* Rather, he attributed any depressive symptoms Claimant might have to his "low back injury and its sequelae" from his work with Mission Essential Personnel in February 2014, after his work for Employer. *Id.* at 30.

In weighing the medical opinions, the ALJ permissibly discredited Dr. Hubli's opinion because she did not adequately explain her opinion and because she is not a psychologist. *See Ogawa*, 608 F.3d at 652-53; *Rhine*, 596 F.3d at 1165; D&O at 21. The ALJ also discredited Dr. Kimmel's opinion because he did not adequately discuss the possibility of Claimant malingering or exaggerating despite acknowledging that

[11] Dr. Kimmel is a licensed psychologist. JX 12. He administered the Mental Status Examination, Wechsler Adult Intelligence Scale-IV, Beck Depression Inventory-II, Spielberger State-Trait Anxiety Inventory, and Clinician-Administered PTSD Scale for the Diagnostic and Statistical Manual Fifth Edition. *Id.* at 14-17.

Claimant's Personality Assessment Inventory scores indicated "a high degree of distortion" and "are of such magnitude that the profile should be interpreted with causation." JX 12 at 17; D&O at 22. Further, having found Claimant fabricated an incident to Dr. Kimmel, the ALJ rationally discredited Dr. Kimmel's opinion. *See Walker*, 526 F.2d at 1140-1141; D&O at 22.

The ALJ then gave great weight to Dr. Meisner's opinion because it did not rely on Claimant's unreliable self-reporting. D&O at 22. He found Dr. Meisner's opinion well-reasoned and documented because he discussed Claimant's unreliable self-reporting, has a specialization in the field of psychology, and gave an opinion supported by other evidence in the record. *Id.* Therefore, the ALJ permissibly gave great weight to Dr. Meisner's opinion that Claimant does not have a work-related psychological injury. *See Ogawa*, 608 F.3d at 652-53; *Rhine*, 596 F.3d at 1165; D&O at 22. Consequently, the ALJ determined Claimant failed to establish a work-related psychological injury.[12] *See Ondecko*, 512 U.S. at 281; D&O at 22.

Because the ALJ's weighing of the evidence and credibility determinations are not "inherently incredible or patently unreasonable" and his factual findings are rational and supported by substantial evidence in the record, we affirm the ALJ's conclusion that Claimant has not established a compensable injury. Therefore, we affirm his denial of

[12] The ALJ noted Claimant testified his second employment in Afghanistan with Mission Essential Personnel was his most dangerous employment abroad. D&O at 22; JX 8 at 73. Consequently, he determined that even if he had found Claimant suffered a work-related psychological injury, "recovery would nevertheless be precluded by his earlier settlement with [Mission Essential Personnel] under the last responsible operator doctrine." D&O at 22 (citing *Indep. Stevedore Co. v. O'Leary*, 357 F.2d 812, 814-15 (9th Cir. 1966); *Kooley v. Marine Indus. Nw.*, 22 BRBS 142, 146 (1989)).

disability and medical benefits. *Cordero v. Triple A Mach. Shop*, 580 F.2d 1331, 1335 (9th Cir. 1978), *cert. denied*, 440 U.S. 911 (1979); *Rhine*, 596 F.3d at 1165; *Sestich*, 289 F.3d at 1159; D&O at 23.

Accordingly, we affirm the ALJ's Decision and Order Denying Benefits.

SO ORDERED.

DANIEL T. GRESH, Chief
Administrative Appeals Judge

MELISSA LIN JONES
Administrative Appeals Judge

GLENN E. ULMER
Acting Administrative Appeals Judge