



BRB No. 24-0223

MATE HEZRON SEBAKIRA MAGWARA)

Claimant-Petitioner)

v.)

SOC, LLC)

and)

CONTINENTAL INSURANCE COMPANY)

Employer/Carrier-)

Respondents)

NOT-PUBLISHED

DATE ISSUED: 12/23/2025

DECISION and ORDER

Appeal of the Decision and Order Denying Benefits of Noran J. Camp,
Administrative Law Judge, United States Department of Labor

Mate Hezron Sebakira Magwara, Nakasaja Village, Uganda.

Carolina A. Phillips (Markovich Grover PLLC), Houston, Texas, for
Employer and its Carrier.

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

PER CURIAM:

Claimant, without representation,¹ appeals Administrative Law Judge (ALJ) Noran J. Camp's Decision and Order Denying Benefits (2021-LDA-00915) rendered on a claim

¹ Claimant was represented by counsel throughout the proceedings before the Office of Administrative Law Judges. Christopher A. O'Brien, Esq., of Attorneys Jo Ann

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.² 33 U.S.C. §921(b)(3); *O'Keeffe v. Smith, Hinchman & Grylls Assocs., Inc.*, 380 U.S. 359 (1965).

Factual and Procedural Background

The Claim

Claimant allegedly sustained psychological injuries due to his work for Employer as a security guard at Camp Taji in Iraq from September 5, 2008, to February 28, 2010. Joint Exhibits (JX) 1 at 22-23, 40-41, 2 at 1. He testified he experienced frequent rocket and mortar attacks, explosions, and gunfire; he also testified that when an alarm sounded for an incoming rocket or mortar attack, he would have a moment of panic and “pervading fear” before reaching the bunker, but he never witnessed anyone injured by a mortar attack. *Id.* at 58, 61-63, 73-75.

Claimant described “traumatizing” events that “ke[pt] coming to mind.” *Id.* at 58-67, 73-75. He testified he was with a U.S. soldier who was shot and taken to the hospital in critical condition, but he did not know what happened to the soldier thereafter. *Id.* at 66-67. He stated he continues to have nightmares about risking his own life to save a soldier stuck in a pool of muddy water while an incoming attack alarm sounded. *Id.* at 64, 75-76. And he recounted fears of being exposed to possible attacks while standing guard along a

Hoffman & Associates, P.A., filed Claimant's notice of appeal to the Benefits Review Board on March 23, 2024. On October 1, 2024, the Board acknowledged the appeal. On October 8, 2024, Christie H. Gibbons, Esq., of Attorneys Jo Ann Hoffman & Associates, P.A., notified the Board that she represented Claimant, and she filed a Motion to Withdraw as Petitioner's Counsel, Notice of Lien, and Unopposed Motion to Stay Proceedings for Petitioner to Find New Counsel. On November 21, 2024, the Board indicated it would review the appeal under the general standard of review because Claimant was no longer represented by an attorney.

² 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); *Glob. Linguist Sols., L.L.C. v. Abdelmeged*, 913 F.3d 921 (9th Cir. 2019); *McDonald v. Aecom Tech. Corp.*, 45 BRBS 45 (2011).

collapsed portion of the perimeter wall for a week and fears due to witnessing a rocket-propelled grenade destroy the “castle gate.” *Id.* at 59-64, 68, 74.

In February 2010, Claimant went home while on scheduled leave from work and determined he would not return to Iraq for personal reasons. *Id.* at 23. He testified he has done “a bit of farming” but has not been otherwise employed since leaving his work with Employer. *Id.* at 12, 24-27.

Claimant testified he began experiencing psychological symptoms, including panic attacks, hallucinations, and nightmares, four months before leaving Iraq and he did not report the symptoms to Employer due to his fear of dismissal. JX 1 at 35-36, 44. He explained his symptoms worsened upon returning home, he felt “unsettled” and physically weak, and he experienced a lack of sleep, moodiness, emotional outbursts, hallucinations, and nightmares. *Id.* at 22, 35-38, 43-44.

In September 2019, Claimant sought treatment at China-Uganda Friendship Hospital and was referred to Psychiatric Clinical Officer Musuto Bwonya Alex (PCO Musuto), and in November 2019, he began to treat with PCO Musuto.³ JXs 1 at 46-47, 49, 7 at 1-7. PCO Musuto noted Claimant reported symptoms that began while he was working in Iraq, including sleeplessness, sweating, palpitations, “constant headaches,” fear, outbursts of anger, sadness, anxiety, nightmares, and flashbacks. JX 7 at 8. PCO Musuto further noted Claimant reported “witness[ing] people who died in the war,” he “could see” and had dreams of the dead bodies, and these circumstances had disturbed him since arriving home. *Id.* at 8-9. PCO Musuto diagnosed Claimant with post-traumatic stress disorder (PTSD) based on the Self-Reporting Questionnaire (SRQ) and the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5).⁴ *Id.* at 10.

On June 2, 2020, Claimant filed his claim seeking benefits for work-related psychological injuries. JX 2. Employer and its Carrier (Employer) controverted the claim on September 8, 2020. JX 3. On December 10, 2020, the case was transferred to the Office of Administrative Law Judges (OALJ), and on May 27, 2021, the ALJ issued a Notice of

³ Beginning in 2010 or 2011, Claimant sought care for his psychological symptoms at his church and, in 2013 or 2014, began taking herbal remedies. JX 1 at 37-38, 44-45.

⁴ The ALJ “presumed” PCO Musuto prepared the “Medical Questionnaire” and handwritten notes submitted by Claimant. D&O at 10-11; JXs 1 at 49, 55, 69, 7 at 1-7, 11-12. In the handwritten notes and questionnaire, PCO Musuto listed Claimant’s symptoms and noted his diagnosis of PTSD. JX 7 at 1-7, 11-12.

Assignment indicating there would be no formal hearing unless requested by a party. The parties agreed to a decision on the record.

At Employer's request, Dr. Jane Booth, a clinical neuropsychologist, conducted a virtual evaluation of Claimant on November 11, 2021, with assistance from an interpreter. JX 8. She reviewed Claimant's treatment records, reported symptoms, and employment history, conducted a clinical interview, and administered psychological tests.⁵ *Id.* at 2-8. She opined validity measures were "indicative of over-reporting of psychological dysfunction to the extent that the protocol may be invalid" and Claimant's description of "disproportionate symptomatic reactions relative to the described traumatic events" did not "present like a genuine trauma-based stress condition." *Id.* at 9-11. Based on inconsistencies between Claimant's self-reporting, the test results, and her interview, she concluded there was "no reliable evidence of a psychological condition" caused by Claimant's work for Employer. *Id.* at 11-12.

Order to Show Cause Proceedings

On December 23, 2022, the ALJ issued a consolidated Order to Show Cause (OTSC) for the present claim and for *Loboso v. SOC, LLC*, Case No. 2020-LDA-01605, a different claim pending before him.⁶ He explained both Claimants, who were represented by attorneys from Attorneys Jo Ann Hoffman & Associates, P.A. (Hoffman Firm), submitted medical reports authored by PCO Musuto with "remarkable similarities" and "nearly identical" descriptions. OTSC at 2-3. Further, he noted these reports were "virtually identical and substantively indistinguishable" from reports submitted in ten additional claims either pending before or recently decided by the OALJ's Boston District Office.⁷ *Id.* at 2-3.

⁵ Dr. Booth administered the following tests: Beck Anxiety Inventory (BAI); Beck Depression Inventory (BDI-II); Clinical Administered PTSD Scale-5 (CAPS-5); Minnesota Multiphasic Personality Inventory-2-Restructured Form (MMPI-2-RF); Neurobehavioral Symptom Inventory (NSI); Patient Competency Rating Scale (PCRS); PTSD Checklist for DSM-5 (PCL-5); Structured Inventory of Malingered Symptomatology (SIMS); Test of Memory and Malingered (TOMM); and World Health Organization Disability Assessment Schedule 2.0 (WHODAS 2.0). JX 8 at 9.

⁶ We will refer to Claimant and claimant Alex Loboso as "the Claimants" in discussing the consolidated OTSC proceedings.

⁷ The ALJ "adopted and incorporated" District Chief ALJ Jonathan C. Calianos's reasoning from his December 22, 2022 Order to Show Cause identifying similarities between PCO Musuto's reports in twelve cases pending before or recently decided by the

Consequently, the ALJ ordered the Hoffman Firm to show cause why: 1) PCO Musuto's medical reports should not be stricken from the two claims; 2) he should not dismiss both claims with prejudice; and 3) PCO Musuto should not be permanently barred from presenting any evidence in cases pending before him. OTSC at 3. He invited but did not require Employer and its Carrier to respond. *Id.*

The Hoffman Firm responded on January 9, 2023. Claimants' Response to Order to Show Cause (Cl. OTSC Resp.). They argued against imposition of any of the proposed sanctions because: there was no clear and convincing evidence that PCO Musuto knowingly and willfully made false statements, misrepresented facts, or committed fraud; the authenticity of PCO Musuto's reports was not properly raised; debarment proceedings had not been properly initiated; and dismissal with prejudice was a severe sanction that would violate the Claimants' due process. Attached to the Claimants' response was an affidavit signed by PCO Musuto explaining his credentials, confirming each of the twelve claimants identified in the medical reports were his patients, indicating his practice is to use a form template in preparing medical reports, and admitting to some "errors pertaining to copying and pasting certain sections of their reports," but denying fraud and intentional misrepresentation. Exhibit 1 to Cl. OTSC Resp.

Employer responded to the OTSC with evidence of an additional eighty-three cases involving its Carrier in which claimants represented by the Hoffman Firm submitted similar medical reports from PCO Musuto. Exhibit A to Employer's Response to Order to Show Cause (Emp. OTSC Resp.). In addition, Employer included an index of the medical reports identifying the name of each claimant, the identity of each employer, the Office of Workers' Compensation Programs (OWCP) and OALJ case numbers, and the date of each medical report. Emp. OTSC Resp. at 4-8. Employer submitted PCO Musuto's medical reports from the eighty-three claims (Exhibit A), medical questionnaires completed by PCO Musuto in thirty-three additional claims (Exhibit B), and PCO Musuto's medical reports from four additional claims in which the claimants were not represented by the Hoffman Firm (Exhibit C). On January 13, 2023, the Claimants filed an Objection and Motion to Strike the exhibits attached to Employer's OTSC Response. Employer responded to the objection, and the Claimants filed a Motion for Leave to File a Reply.

On January 27, 2023, the ALJ denied the Claimants' motions to strike and for leave to reply, and admitted Employer's Exhibits A-C. Order Denying Claimants' Motion to Strike and Motion for Leave to File Reply, Requiring Supplemental Responses to the

OALJ's Boston District Office. OTSC at 2-3; *see Bugaba v. SOC-SMG, Inc., et al.*, Case Nos. 2021-LDA-03931, 2021-LDA-02273, and 2021-LDA-02523 (ALJ Dec. 22, 2022) (Order).

OTSC, and Seeking a Position Statement from the Director, OWCP (Supp. OTSC) at 3, 6. The ALJ stated he intended to take official notice of PCO Musuto's medical reports filed in the ten cases from the OALJ's Boston District Office. *Id.* at 3. Based on the Claimants' response to the OTSC, the ALJ withdrew the requirement for the Hoffman Firm to show cause as to why PCO Musuto should not be barred from presenting reports in his cases and why the consolidated cases should not be dismissed with prejudice. *Id.* However, the ALJ ordered the Hoffman Firm to address its conduct as it related to 29 C.F.R. §§18.22(d)(1)-(2), 18.35(b)(1), (3) of the OALJ Rules of Practice and Procedure (OALJ Rules), which provide representatives must not "deceive or knowingly mislead," "[k]nowingly make or present false or misleading statements," or submit filings for "an improper purpose" or without "evidentiary support." *Id.* at 3-4. The ALJ requested Employer provide an amended index for Exhibit A from its initial response to the OTSC. *Id.* at 4.

On February 15, 2023, the Hoffman Firm responded, arguing it did not violate the OALJ Rules. Claimants' Supplemental Response to Order to Show Cause (Cl. Supp. OTSC Resp.) at 12-15. It further argued the ALJ improperly took official notice of PCO Musuto's medical reports from other cases because the contents of the reports are in dispute, and the ALJ had only personal knowledge of the existence of the reports, as opposed to professional knowledge of them from cases within his territorial jurisdiction.⁸ *Id.* at 15-17.

On August 1, 2023, the ALJ issued an Order Dismissing Order to Show Cause Proceedings and Referring Matters to Chief Administrative Law Judge (OTSC Order). The ALJ reviewed PCO Musuto's reports in the two consolidated claims before him and from nine claims pending before or recently decided in the OALJ's Boston District Office.⁹ *Id.* at 3-11. He determined PCO Musuto's reports are "unreliable" and entitled to "no weight" due to the similarities between the reports submitted in the eleven claims and the discrepancies between the reports and the Claimants' deposition testimonies. *Id.* at 3-11. He further found the Hoffman Firm violated the OALJ Rules based on its submission and

⁸ Employer filed a Supplemental Response to the OTSC with exhibits, the Claimants filed an Objection and Motion to Strike Employer's Supplemental Response to the OTSC and additional exhibits, and Employer responded to the Claimants' objection. The ALJ did not rely on Employer's supplemental response or the associated exhibits and denied Claimant's motion as moot. Order Dismissing Order to Show Cause Proceedings and Referring Matters to Chief Administrative Law Judge at 12 n.19.

⁹ The ALJ noted he did not consider the additional eighty-three medical reports authored by PCO Musuto that Employer submitted in response to his OTSC. OTSC Order at 9 n.13.

reliance on PCO Musuto's reports and its failure to withdraw or correct the reports after PCO Musuto's admission that "copying and pasting" within his reports resulted in "errors." *Id.* at 3-4, 10-11. Finally, the ALJ referred the entire matter to Chief ALJ Stephen R. Henley "to conduct any further investigation as he deems appropriate and necessary" with respect to the Hoffman Firm. *Id.* at 11.

Decision and Order on the Merits

After determining that neither Section 12 nor 13 of the Act, 33 U.S.C. §§912, 913, barred Claimant's claim for compensation, the ALJ found Claimant invoked the Section 20(a) presumption, 33 U.S.C. §920(a), linking his work to his alleged psychological injury, and Employer rebutted the presumption. D&O at 14-17. In weighing the evidence as a whole, the ALJ relied on his credibility determinations about PCO Musuto's report from the OTSC Order and determined Claimant failed to establish a work-related psychological injury.¹⁰ *Id.* at 6-14, 17-18; *see* OTSC Order at 3-11. Consequently, he denied benefits. *Id.* at 18.

On appeal, Claimant generally challenges the denial of benefits.¹¹ Employer responds, urging affirmance.

Section 20(a) Rebuttal

When, as in this case, the Section 20(a) presumption is invoked, *Rose v. Vectrus Sys. Corp.*, 56 BRBS 27 (2022) (Decision on Recon. en banc), *appeal dismissed* (M.D. Fla. Aug. 24, 2023); *see also Rainey v. Director, OWCP*, 517 F.3d 632, 634 (2d Cir. 2008), the burden shifts to the employer to produce substantial evidence that the claimant's condition was not caused or aggravated by his employment. *Rainey*, 517 F.3d at 634; *Am. Stevedoring, Ltd. v. Marinelli*, 248 F.3d 54, 65 (2d Cir. 2001); *O'Kelley v. Dep't of the Army/NAF*, 34 BRBS 39, 41 (2000). The inquiry at rebuttal is whether the employer submitted "such relevant evidence as a reasonable mind might accept as adequate" to support a finding that the claimant's injury is not work-related. *Rainey*, 517 F.3d at 637. The employer's burden on rebuttal is one of production, not persuasion, and is not dependent on credibility. *Id.*; *Rose*, 56 BRBS at 30; *Victorian v. Int'l-Matex Tank*

¹⁰ Having found no compensable injury, the ALJ did not address the nature and extent of Claimant's alleged disability, entitlement to medical benefits, or average weekly wage. D&O at 3.

¹¹ We affirm, as unchallenged on appeal, the ALJ's finding Claimant invoked the Section 20(a) presumption. *See Scalio v. Ceres Marine Terminals, Inc.*, 41 BRBS 57, 58 (2007); D&O at 16-17.

Terminals, 52 BRBS 35, 41 (2018), *aff'd sub nom. Int'l-Matex Tank Terminals v. Director, OWCP*, 943 F.3d 278 (5th Cir. 2019); *Suarez v. Serv. Emps. Int'l, Inc.*, 50 BRBS 33, 36 n.4 (2016); *Cline v. Huntington Ingalls, Inc.*, 48 BRBS 5, 7 (2013). A physician's unequivocal opinion that no relationship exists between the alleged injury and a claimant's employment is sufficient to rebut the presumption. *See Suarez*, 50 BRBS at 36; *Cline*, 48 BRBS at 7; *O'Kelley*, 34 BRBS at 41.

The ALJ found Dr. Booth's opinion that there is no "reliable evidence" that Claimant has a psychological condition related to his work for Employer is sufficient to rebut the Section 20(a) presumption. D&O at 17; *see* JX 8 at 11. We agree. Dr. Booth reported Claimant does not have a psychological condition based on her evaluation and objective testing, noting "inconsistencies" between Claimant's self-reported symptoms and his responses during her interview and testing. JX 8 at 4-11. She further opined Claimant's description of "disproportionate symptomatic reactions" did not "present like a genuine trauma-based stress condition." *Id.* at 11. Based on this evidence, Dr. Booth concluded there is "no reliable evidence" to support a medical conclusion that Claimant has a psychological condition. *Id.* Dr. Booth's opinion constitutes substantial evidence to rebut the Section 20(a) presumption. *See Rainey*, 517 F.3d at 637; *Suarez*, 50 BRBS at 36; *Cline*, 48 BRBS at 6-7; *O'Kelley*, 34 BRBS at 41-42. Consequently, we affirm the ALJ's determination that Employer rebutted the Section 20(a) presumption. D&O at 17.

Weighing the Evidence as a Whole

If the employer rebuts the Section 20(a) presumption, it drops out of the analysis, and the issue of causation must be resolved on the record as a whole with the claimant bearing the burden of persuasion by a preponderance of the evidence. *Rainey*, 517 F.3d at 634; *Marinelli*, 248 F.3d at 65; *Santoro v. Maher Terminals, Inc.*, 30 BRBS 171 (1996); *see also Director, OWCP v. Greenwich Collieries [Ondecko]*, 512 U.S. 267 (1994). When weighing the evidence, the ALJ is entitled to evaluate the credibility of the witnesses, *Pietrunti v. Director, OWCP*, 119 F.3d 1035, 1042 (2d Cir. 1997); *John W. McGrath Corp. v. Hughes*, 289 F.2d 403, 405 (2d Cir. 1961), 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 draw his own inferences and conclusions from the evidence, *Compton v. Avondale Indus., Inc.*, 33 BRBS 174, 176-177 (1999). The Board will not interfere with credibility determinations unless they are "inherently incredible or patently unreasonable." *Cordero v. Triple A Mach. Shop*, 580 F.2d 1331, 1335 (9th Cir. 1978), *cert. denied*, 440 U.S. 911 (1979). 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. *See 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).

In weighing the evidence as a whole, the ALJ first determined Claimant's testimony regarding his employment history, symptoms, and treatment is credible. D&O at 6-8. The ALJ then found PCO Musuto's report is "unreliable" and entitled to "no weight" based on the findings in his prior OTSC Order and PCO Musuto's treatment records are unreasoned. *Id.* at 9-11, 17-18; *see* OTSC Order at 3-11. Conversely, the ALJ found Dr. Booth's opinion entitled to "some weight" based on her testing, interview, and "reasoned explanation[s]," noting that her failure to describe all the objective testing and failure to address any potential language or cultural barriers "detract[ed]" from her opinion's overall weight. *Id.* at 13-14, 17. Nonetheless, the ALJ concluded Dr. Booth's opinion outweighed Claimant's testimony and PCO Musuto's records and the weight of the evidence demonstrated Claimant failed to establish a work-related psychological injury. D&O at 17-18.

First, we will address the ALJ's credibility determinations with respect to PCO Musuto's report and treatment records, as discussed in his OTSC Order and Decision and Order Denying Benefits. D&O at 9-11, 17-18; OTSC Order at 3-11. In his OTSC Order, the ALJ set forth multiple paragraphs in PCO Musuto's reports that were "nearly identical" in the two claims pending before him and in nine other claims pending or recently decided in the Boston District. OTSC Order at 4-10. Additionally, the ALJ documented discrepancies between PCO Musuto's records and Claimant's deposition testimony. *Id.* at 4-10. Specifically, the ALJ accurately noted that contrary to PCO Musuto's report that Claimant "witnessed people who died in war, [and that] he could see dead bodies of people who died of bomb blasts;" Claimant made no mention of seeing any dead bodies while in Iraq, but only recounted seeing a soldier in "critical condition," and never witnessed anyone injured in a mortar attack. *Id.* at 4-6, 8 n.11; *compare* JX 1 at 66, 75, *with* JX 7 at 9. The ALJ also accurately observed PCO Musuto documented "constant headaches" in his report, but Claimant never testified about having headaches and PCO Musuto's treatment records do not mention complaints of headaches or any treatment for headaches. *Id.* at 6 n.7; *compare* JX 7 at 8-9, *with* JXs 1, 7 at 1-7. The ALJ further noted PCO Musuto admitted he made "errors" due to "copying and pasting" portions of the twelve medical reports. *Id.* at 9-10; *see* Exhibit 1 to Cl. OTSC Resp. Thus, the ALJ determined PCO Musuto's report is unreliable and entitled to no weight. *Id.* at 10; D&O at 9.

Moreover, in his Decision and Order, the ALJ reviewed PCO Musuto's handwritten notes and "Medical Questionnaire" and determined PCO Musuto's records are unreasoned and entitled to no weight. D&O at 10-11; JX 7 at 1-7, 11-12. The ALJ acknowledged PCO Musuto wrote "[a]ccording to DSM5 (PCL5)" on the top of the questionnaire but provided no further context or description of the testing in relation to his diagnosis of Claimant with PTSD. D&O at 10-11; JX 7 at 1. The ALJ further noted PCO Musuto listed Claimant's symptoms and diagnosis in both documents but provided no explanation for the diagnosis, apart from generally stating the "traumatic event[s]" during Claimant's work for Employer

“greatly contributed” to his condition. D&O at 10-11; JX 7 at 1-7, 11-12. The ALJ concluded PCO Musuto’s report and treatment records are entitled to no weight. D&O at 9-11, 17-18; OTSC Order at 10-11.

Wholly independent of the ALJ’s reference to similar reports in other cases, his reasons for discrediting PCO Musuto’s report *in this case* are reasonable: the factual discrepancies between PCO Musuto’s report and Claimant’s deposition testimony, the lack of supporting evidence for the symptoms included in PCO Musuto’s report, and the unexplained nature of his diagnosis all provide independent bases to question PCO Musuto’s opinion. *Rainey*, 517 F.3d at 634; *Marinelli*, 248 F.3d at 65; *Pietrunti*, 119 F.3d at 1042; *Compton*, 33 BRBS at 176-177. And they do not depend on comparing his report to those admitted in other cases.¹² As these credibility determinations are rational, supported by substantial evidence of record, and not “inherently incredible or patently unreasonable,” we affirm them. *Gasparic*, 7 F.3d at 323; *Cordero*, 580 F.2d at 1335.

The ALJ next considered Claimant’s testimony and Dr. Booth’s report. D&O at 6-8, 12-14, 17-18. While the ALJ found Claimant’s general testimony about his experiences in Iraq credible, he determined that without any corroborating medical evidence regarding symptoms and treatment, and given Dr. Booth’s contradictory opinion, Claimant failed to establish the presence of a psychological injury by a preponderance of the evidence. *Id.* at 6, 14, 17-18. The ALJ determined Dr. Booth “persuasively explained” there was “no reliable evidence” of a psychological injury based on inconsistencies between Claimant’s responses during the interview and the objective testing. Dr. Booth noted inconsistencies between Claimant’s reported symptoms in his interview and in his self-reporting. JX 8 at 10-11. The ALJ specifically quoted Dr. Booth’s discussion about Claimant’s conflicting responses on the PCL-5 questionnaire and the CAPS-5. D&O at 12-14, 17. Although the ALJ stated Dr. Booth’s failure to discuss all the objective testing or to address any potential language or cultural barriers “detract[ed]” from her opinion’s overall weight, he concluded her opinion is entitled to “some weight” based on her “reasoned explanation[s]” and her

¹² While an ALJ cannot consider evidence outside of the record in making a decision regarding the claim before him, he can supplement the record sua sponte by taking official notice of a material and adjudicative fact “or other matter subject to judicial notice” as long as he notifies the parties and provides an opportunity to respond. 29 C.F.R. §18.84; 5 U.S.C. §556(e); *Lindsay v. Bethlehem Steel Corp.*, 18 BRBS 20, 22 (1986). Nevertheless, we need not decide whether the ALJ properly took official notice of PCO Musuto’s reports from Alex Loboso’s claim or the claims pending or recently decided in the Boston District Office because his credibility assessment of PCO Musuto’s report in the present claim is not dependent solely on his consideration of those additional reports. OTSC Order at 4-11; see Supp. OTSC at 3; OTSC at 2-3.

consideration of “Claimant’s pattern of responses across all the testing” rather than relying on a “singular” response. *Id.* at 12-14, 17.

For these reasons, the ALJ determined Dr. Booth’s opinion outweighed Claimant’s testimony and PCO Musuto’s records. D&O at 17-18. Because the ALJ’s weighing of the evidence is rational and supported by substantial evidence, *Pietrunti*, 119 F.3d at 1042; *Gasparic*, 7 F.3d at 323; *Hughes*, 289 F.2d at 405, we affirm the ALJ’s finding that Claimant has not established a work-related psychological injury by a preponderance of the evidence and the denial of benefits. *Sistrunk v. Ingalls Shipbuilding, Inc.*, 35 BRBS 171, 174 (2001); *Coffey v. Marine Terminals Corp.*, 34 BRBS 85, 87 (2000); D&O at 18.

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

SO ORDERED.

JONATHAN ROLFE
Administrative Appeals Judge

MELISSA LIN JONES
Administrative Appeals Judge

GLENN E. ULMER
Acting Administrative Appeals Judge