U.S. Department of Labor

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

BRB No. 24-0251

CRISTOBAL VALQUI GARCIA Claimant-Petitioner v. CONSTELLIS GROUP/TRIPLE CANOPY, INCORPORATED and CONTINENTAL INSURANCE COMPANY Employer/Carrier-Respondents	)	**NOT-PUBLISHED** DATE ISSUED: 02/18/2026 DECISION and ORDER

Appeal of the Decision and Order Denying Benefits of Dan C. Panagiotis, Administrative Law Judge, United States Department of Labor.

Allison T. Graber and Jacob S. Garn (Attorneys Jo Ann Hoffman & Associates, P.A.), Lauderdale-By-The-Sea, Florida, for Claimant.

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

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

PER CURIAM:

Claimant appeals Administrative Law Judge (ALJ) Dan C. Panagiotis's Decision and Order Denying Benefits (2021-LDA-00438) 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 worked in Iraq for Employer from November 29, 2007, to January 11, 2010, first as an armed security guard and then as a driver/security guard, after which he returned home to Peru. Joint Exhibits (JXs) 1 at 59, 71-73, 7 at 1. During his employment, he was assigned to Camps Jackson, Condor, and River Pool. JX 1 at 74. He testified that while working for Employer he was subjected to multiple incidents involving improvised explosive devices (IEDs), rocket attacks, mortar attacks, and shootings which caused him to frequently take shelter in bunkers, experience stress, and fear for his life. *Id.* at 126-127, 131-132, 136, 145, 166. He stated shrapnel hit his shoulder during a mortar attack, requiring him to receive two or three stitches. *Id.* at 79-80, 133-135. Further, he recalled an incident during which he saw an incoming rocket and, although there was no direct impact, "the rocket pushed all of us away," causing him to hit his nose, suffer a nosebleed, and lose his hearing for approximately one hour. *Id.* at 80-81, 135.

While in Peru on vacation in January 2010, Claimant decided not to return to Iraq to complete the remainder of his contract because he was not feeling well due to various ailments and he no longer enjoyed the work. JX 1 at 15, 60, 75-76, 121-124 (his symptoms included nervousness, alertness, and ongoing kidney pain). He worked as a taxi driver in Peru until 2017. *Id.* at 28.

After returning from Iraq, Claimant claims to have experienced several problems, including anxiety, trouble sleeping, high alertness, heightened startle reactions, altercations with his taxi passengers, and difficulty maintaining employment due to discordant relationships with colleagues. *Id.* at 23, 60-68, 142-143. He also claims to have separated from his wife due to his problems. *Id.* at 15-16. In 2017, Claimant learned from "friends" on Facebook that he could file a claim for his alleged injury.[2] *Id.* at 121. In April 2018,

[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 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).

[2] The ALJ identifies Claimant's Facebook friends as former colleagues he worked with for Employer who also filed claims for benefits under the Act. D&O at 4, 20.

Claimant moved to Spain after acquiring Spanish citizenship, and beginning in early 2019, he worked for five different employers as a truck driver.[3] *Id.* at 28, 35-39.

On May 4, 2020, Claimant began treating from Spain via Zoom with Dr. Sandra D'Luyz Ortega, a psychologist in Colombia, based on recommendations from his "friends." JXs 1 at 68, 103-104, 110, 121, 124, 8, 20. Dr. D'Luyz Ortega diagnosed Claimant with post-traumatic stress disorder (PTSD), insomnia, and adaption disorder mixed with anxiety and depressive mood caused by his employment in Iraq. JX 8 at 2. She recommended psychotherapy and opined Claimant is unable to work in a war zone. *Id.* at 2-3. She treated Claimant for ten additional sessions, emphasized his continued need for psychotherapy, and referred him to a psychiatrist. *Id.* at 10-11, 16, 18, 20, 22, 24, 28, 30.

On June 12, 2020, Claimant virtually treated from Spain via Zoom with Dr. Pilar Hernandez Mujica, a psychiatrist in Colombia, pursuant to Dr. D'Luyz Ortega's referral. JXs 1 at 109-110, 10, 21. Dr. Hernandez Mujica diagnosed Claimant with PTSD. JX 10 at 2. She opined his condition was currently under control because Claimant no longer is working in a war zone or exposed to similar stressful situations. *Id.* at 2. Claimant discontinued treatment with Dr. Hernandez Mujica because the six-hour time difference between Colombia and Spain presented communication challenges. JX 1 at 111.

On January 8, 2021, Claimant began treating with Dr. María Ordax Abad, a sanitary psychologist and integral coach in Spain. JXs 1 at 105, 9, 22. Dr. Ordax Abad diagnosed Claimant with PTSD, primary insomnia, and depression due to his work in a war zone. JX 9 at 4. In multiple sessions between January and December 2021, she recommended continued psychological care and referred Claimant to a psychiatrist. JX 9 at 4, 9, 11, 13, 15, 17, 21, 23.

On January 1, 2022, at Employer's request, clinical psychologist Dr. Phillip Rambo performed a medical examination of Claimant. JXs 12, 13. He administered psychological testing[4] and reviewed Claimant's medical record. JX 12 at 1, 4-5. Based on Claimant's

[3] Claimant worked at the following companies: Cerezuela (two months - company filed for bankruptcy); Isabela Alonso (fifteen days allegedly due to problems with coworkers); Nupec (five months); Belzunce (nine days allegedly because the company was too demanding); and GTO (at least through the date of his deposition). JX 1 at 35-46.

[4] Dr. Rambo administered the following tests: the Beck Anxiety Inventory (BAI); the Beck Depression Inventory, 2nd edition (BDI-II); the Clinician-Administered PTSD Scale-5 (CAPS-5); the Dot Counting Test; Minnesota Multiphasic Personality Inventory-2 Restructured Form (MMPI-2-RF); the Neurobehavioral Symptom Inventory (NSI); the

test results and symptom validity test scores, Dr. Rambo opined "[t]he current evaluation does not support a psychiatric diagnosis." *Id.* at 7. As he found Claimant has no psychological condition, Dr. Rambo indicated there is no condition to tie to his work with Employer. *Id.* at 7-8.

On April 13, 2022, Claimant was evaluated by clinical psychologist Dr. Gustavo R. Benejam, who interviewed Claimant, conducted a mental status examination, administered psychological testing,[5] and reviewed Claimant's medical records including Dr. Rambo's report. JXs 11 at 2-11, 19. Dr. Benejam diagnosed Claimant with chronic PTSD, severe major depressive disorder, and severe generalized anxiety disorder based on his reported symptoms and test results. JX 11 at 10, 14. He further opined Claimant's psychological and emotional state are attributable to his work experiences in Iraq. *Id.* at 6, 14.

On June 8, 2020, Claimant filed a claim under the Act seeking benefits for his alleged work-related psychological condition. JX 2. Employer first became aware of the claim on July 21, 2020, and controverted it on July 23, 2020. EXs 4, 5. Claimant was deposed on January 18, 2022, and February 10, 2022, JX 1, and a hearing before the Office of Administrative Law Judges (OALJ) was held on December 7, 2022.

On March 12, 2024, the ALJ issued his Decision and Order (D&O). He found Claimant failed to prove he suffered from a work-related psychological injury. D&O at 21-32. While he found Claimant successfully invoked the Section 20(a) presumption of compensability, 33 U.S.C. §920(a), he further found Employer presented sufficient evidence to rebut the presumption. *Id.* at 22-23. Upon weighing the medical opinions and Claimant's deposition testimony, the ALJ found Claimant failed to prove by a preponderance of the evidence that he suffers from a work-related psychological condition. *Id.* at 24-32.

PTSD Checklist for DSM-5 (PCL-5); the Structured Inventory of Malingered Symptomatology (SIMS); the Test of Memory and Malingering (TOMM); and the World Health Organization Disability Assessment Schedule 2.0 (WHODAS 2.0). JX 12 at 4-5.

[5] Dr. Benejam administered the following psychological testing: the Beck Depression Inventory (BDI); the Beck Anxiety Inventory (BAI); the Beck Scale for Suicide Ideation (BSI); the Folstein Mini-Mental State Exam (MMSE); the Revised Green et al. Paranoid Thoughts Scale (R-GPTS); the PTSD and Suicide Screener (PSS); the PTSD Checklist-5 (PCL-5); the Clinician-Administered PTSD Scale for the Diagnostic and Statistical Manual of Mental Disorders, fifth edition (CAP-5); the Structured Inventory of Malingering Symptomatology (SIMS); and the Miller Forensic Assessment of Symptoms Test (M-FAST). JX 11 at 7-10.

On appeal, Claimant challenges the ALJ's denial of benefits, arguing he erred in finding Employer rebutted the Section 20(a) presumption and erred in weighing the evidence. Employer responds, urging affirmance of the ALJ's decision.[6] Claimant filed a reply brief.

Section 20(a) Rebuttal

When, as in this case, the Section 20(a) presumption is invoked, 33 U.S.C. §920(a); *Rose v. Vectrus Sys. Corp.*, 56 BRBS 27 (2022) (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 is "specific and comprehensive enough" to sever the connection between the claimant's condition and his employment. *Am. Stevedoring Ltd. v. Marinelli*, 248 F.3d 54, 65 (2d Cir. 2001); *Port Cooper/T. Smith Stevedoring Co. v. Hunter*, 227 F.3d 285, 288 (5th Cir. 2000); *see Noble Drilling Co. v. Drake*, 795 F.2d 478, 481 (5th Cir. 1986) (substantial evidence is that which a reasonable mind could accept to support a conclusion). A physician's unequivocal opinion that the claimant does not suffer from the alleged injury or that no relationship exists between the alleged injury and a claimant's employment is sufficient to rebut the presumption. *Sylejmani v. Fluor Conops, Ltd.*, 57 BRBS 25, 31 (2023); *Suarez v. Serv. Emps. Int'l, Inc.*, 50 BRBS 33, 36 (2016); *Cline v. Huntington Ingalls, Inc.*, 48 BRBS 5, 6-7 (2013); *O'Kelley v. Dep't of the Army/NAF*, 34 BRBS 39, 41-42 (2000).

Claimant contends the ALJ erred in finding Dr. Rambo's opinion sufficient to rebut the Section 20(a) presumption because it is equivocal and it does not constitute substantial evidence contrary to Claimant's evidence. Cl.'s Brief at 4-14. We disagree, as Claimant conflates the standards for rebutting the Section 20(a) presumption and proving there is a work-related injury by weighing all the evidence.

The inquiry at rebuttal concerns "whether the employer submitted evidence that could satisfy a reasonable fact finder that [Claimant's injury] is not work-related." *Haw. Stevedores, Inc. v. Ogawa*, 608 F.3d 642, 651 (9th Cir. 2010). Consequently, the employer's burden on rebuttal is one of production only. *Rainey*, 517 F.3d at 637 ("As the Seventh Circuit has helpfully explained, the employer's burden in rebutting the Section 20(a) presumption is a burden of production, not a burden of persuasion."); *Truczinskas v. Director, OWCP*, 699 F.3d 672, 678 (1st Cir. 2012); *Rose*, 56 BRBS at 35. The weighing of conflicting evidence or of the credibility of each piece of evidence "has no proper place in determining whether [employer] met its burden of production." *Ogawa*, 608 F.3d at

[6] As the parties do not challenge the ALJ's findings on invocation of the Section 20(a) presumption for Claimant's alleged psychological injury, we affirm them. *Scalio v. Ceres Marine Terminals, Inc.*, 41 BRBS 57, 58 (2007); D&O at 22.

651. Neither the weight given to a claimant's supporting evidence nor the credibility of the employer's evidence affects the employer's burden of production on rebuttal, as the credibility of the evidence is not a consideration at either the invocation or rebuttal stages of the causation analysis. *Ogawa*, 608 F.3d at 651; *Rose*, 56 BRBS at 35. If the employer successfully rebuts the presumption, then the ALJ must resolve the issue of causation based on the evidence as a whole. *Rainey*, 517 F.3d at 634; *Marinelli*, 248 F.3d at 65; *Universal Mar. Corp. v. Moore*, 126 F.3d 256, 262 (4th Cir. 1997); *Santoro v. Maher Terminals, Inc.*, 30 BRBS 171, 175 (1996).

Contrary to Claimant's assertion, the ALJ did not make an erroneous finding of fact that would affect his determination as to whether Employer successfully rebutted the presumption.[7] D&O at 22-23; Cl.'s Brief at 4-11. We agree with Claimant's statement of the law that an equivocal opinion as to etiology is insufficient to support rebuttal. *Parsons Corp. of Cal. v. Director, OWCP* [*Gunter*], 619 F.2d 38, 41 (9th Cir. 1980) (rebuttal requires evidence "specific and comprehensive enough to sever the potential connection between the disability and the work environment;" the standard is not met where an expert could not say exposure did not trigger or accelerate the disease). However, in this instance, as the ALJ accurately stated, Dr. Rambo specifically concluded there is no reliable evidence establishing Claimant has a psychological condition based on his testing and

[7] We reject Claimant's argument that the ALJ's findings of rebuttal of the Section 20(a) presumption are tainted because he mistakenly stated that "[Claimant] jumped for cover *between* the concrete barriers" rather than "over the barriers" as Dr. Rambo allegedly states, or because he represented as fact that Claimant was subject to not one but multiple attacks. Cl.'s Brief at 9 (emphasis added). First, Claimant misquotes both the ALJ and Dr. Rambo, as Dr. Rambo indicated Claimant jumped "*between*" the barriers, EX 12 at 2, while the ALJ noted Claimant took cover "*behind*" a concrete barrier, D&O at 11. Additionally, the ALJ referred to and discussed not one but *three* mortar attacks when summarizing Dr. Rambo's opinion. D&O at 11. Nonetheless, these contentions are irrelevant to the issue at hand and Claimant has not explained how the alleged errors to which he points could have made any difference in the ALJ's determination. *Shinseki v. Sanders*, 556 U.S. 396, 409 (2009); 29 C.F.R. §18.401 (relevant evidence is defined as evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence).

interview.[8] *Ogawa*, 608 F.3d at 651; *Rainey*, 517 F.3d at 637; *Rose*, 56 BRBS at 35; D&O at 23; JX 12 at 5-8. To support his determination, Dr. Rambo relied on Claimant's endorsements across performance and symptom validity measures, which were elevated, to conclude there was significant symptom amplification and exaggeration. *Id.* at 5-7. He acknowledged that while Claimant's CAPS-5 testing met the criteria for a PTSD diagnosis, he could not rely on the validity of the items endorsed as it is entirely based on Claimant's self-reporting. *Id.* at 6. In addition, he reviewed Claimant's medical records, opined they rely almost entirely on Claimant's self-reported symptoms, and stated that per the National Center for PTSD, "proper assessment of trauma exposure and PTSD is best accomplished with well validated measures." *Id.* Thus, Dr. Rambo opined that "sufficient confidence cannot be placed into [Claimant's] overall presentation, rendering a diagnosis not possible at this time." *Id.* at 8. After considering Dr. Rambo's report, the ALJ permissibly determined he "*unequivocally* opined that the [evaluation and testing] results did not support a diagnosable psychological condition." *Sylejmani*, 57 BRBS at 31; *Suarez*, 50 BRBS at 36; *Cline*, 48 BRBS at 6-7; D&O at 23 (emphasis added). The ALJ therefore concluded he could reasonably infer from Dr. Rambo's opinion that Claimant has no psychological condition, which is sufficient to rebut the presumption. *Ogawa*, 608 F.3d at 651; D&O at 23.

As Dr. Rambo's opinion directly contradicts the Section 20(a) presumption that Claimant has a psychological injury and is the kind of evidence "a reasonable mind might accept as adequate" to support that conclusion, it constitutes substantial evidence that is legally sufficient to rebut the presumption. *Rainey*, 517 F.3d at 637; *Sylejmani*, 57 BRBS at 31; *Cline*, 48 BRBS at 6-7; *Suarez*, 50 BRBS at 36; *O'Kelley*, 34 BRBS at 41-42. Consequently, we affirm the ALJ's determination that Employer rebutted the Section 20(a) presumption with Dr. Rambo's opinion. D&O at 23.

[8] Dr. Rambo reported that on the PCL-5, Claimant received a "raw score" of "35," which he deemed is clinically elevated. JX 12 at 5. In the BAI and BDI-II, Claimant endorsed symptoms associated with mild levels of anxiety and depression, thereby allotting him a "raw score" of "13" and "18" on each test, respectively. *Id.* Additionally, the WHODAS 2.0 scale indicated Claimant's general disability score was in the "mild range." *Id.* Claimant's performance validity testing fell within the normal limits. *Id.* at 7. However, Claimant's scores on the symptom validity tests were indicative of symptom amplification: Claimant had an invalid profile on the MMPI-2-RF due to overreporting and exaggeration, and he scored "34" on the SIMS which fell within the invalid range of response. *Id.*

Weighing the Evidence

Having affirmed the ALJ's findings on invocation and rebuttal, we next consider the issue of causation on Claimant's psychological injury claim, which the ALJ resolved based on the evidence in the record as a whole, with Claimant bearing the burden of persuasion by a preponderance of the evidence. *Director, OWCP v. Greenwich Collieries* [*Ondecko*], 512 U.S. 267, 271 (1994); *Rainey*, 517 F.3d at 634; *Rose*, 56 BRBS at 39; *Santoro*, 30 BRBS at 174; *Bolden v. G.A.T.X. Terminals Corp*., 30 BRBS 71 (1996). Preponderance of the evidence is not a quantitative standard; rather, it is a standard which denotes a superiority of weight, requiring the party with the burden of persuasion to prove his position by more convincing evidence than the opposing party's evidence. *Santoro*, 30 BRBS at 174-175; *see* Black's Law Dictionary (12th ed. 2024); *see also* Barron's Law Dictionary (1984).

Claimant contends the ALJ erred in discrediting his testimony, failing to give his treating physicians' opinions special weight, and weighing the evidence as a whole. Cl.'s Brief at 11-15, 21-24. He also contends the ALJ erred in assigning Dr. Rambo's opinion greater weight than Dr. Benejam's opinion, as he asserts Dr. Rambo's opinion contained multiple deficiencies. *Id.* at 15-20. We are not persuaded by Claimant's arguments.

In weighing Claimant's testimony and the conflicting medical opinions, the ALJ must evaluate the credibility of all witnesses, weigh the medical evidence, and draw his own inferences and conclusions from the record; he is not bound to accept the opinion or theory of any particular medical expert. *Pietrunti v. Director, OWCP*, 119 F.3d 1035, 1042 (2d Cir. 1997); *Sealand Terminals v. Gasparic*, 7 F.3d 321, 323 (2d Cir. 1993); *Volpe v. Ne. Marine Terminals*, 671 F.2d 697, 700 (2d Cir. 1982); *John W. McGrath Corp. v. Hughes*, 289 F.2d 403, 405 (2d Cir. 1961); *see also Calbeck v. Strachan Shipping Co*., 306 F.2d 693 (5th Cir. 1962), *cert. denied*, 372 U.S. 954 (1963). The ALJ may also accept parts of a witness's testimony and reject 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). Furthermore, the ALJ must explain his rationale in reaching a decision on the evidence, *Kkunsa 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. *See Gasparic*, 7 F.3d at 323; *Volpe*, 671 F.2d at 700.

In this case, the ALJ found there were "self-serving statements" and "narrowly tailored narratives" from Claimant to support his version of events which diminished his

credibility. D&O at 24. For instance, Claimant testified he experienced symptoms and problems after returning from Iraq but did not know they were connected to his work for Employer until he saw Dr. D'Luyz Ortega in May 2020. JX 1 at 60-63, 75-76. However, Claimant stated in his admissions and deposition testimony that he was informed by former colleagues in 2017 and 2019 that they filed claims for psychological injuries "so [he] decided that [he] was also going to file [his] claim." JXs 1 at 142, 15 at 7. He also secured an appointment with Dr. D'Luyz Ortega based on his former coworkers' recommendations. JX 1 at 64. The ALJ observed that at the time of his appointment with Dr. D'Luyz Ortega, Claimant had already moved to Spain and provided no reason why he chose a psychologist in Colombia. D&O at 25. Moreover, the ALJ found Claimant provided the same written narratives to Drs. Ordax Abad and D'Luyz Ortega, which informed their "virtually identical" reports. *Id.* at 25, 27; see JXs 1 at 124-127, 8, 9. He therefore determined Claimant's tailored narratives to his two treating physicians, along with the "inorganic" order of first being informed by former colleagues how to file a claim and then seeking treatment, collectively cast doubt on Claimant's credibility. D&O at 25.

Moreover, the ALJ relied on several discrepancies between Claimant's testimony and the record in making his credibility determination. D&O at 25. The ALJ pointed out that in Claimant's testimony regarding a mortar attack, he stated it occurred during his day off while he was walking around the camp and that it knocked him to the ground; in the narratives he provided to Drs. Ordax Abad and D'Luyz Ortega, he indicated the attack occurred while he was sitting in his parked vehicle in front of the camp and caused him ear bleeding and vomiting. D&O at 25; JXs 1 at 156, 8 at 9, 9 at 3. In addition, the ALJ found Claimant inconsistently stated he was hit in the shoulder by shrapnel during an attack in front of a housing unit at Camp Condor, but he told Dr. Rambo the incident occurred at Camp River Pool and detailed the shrapnel and Camp Condor incident to Drs. Ordax Abad and D'Luyz Ortega as mutually exclusive.[9] D&O at 26; JXs 1 at 133-134, 8 at 9, 9 at 3, 12 at 2. The ALJ also noted Claimant reported to Drs. Ordax Abad and D'Luyz Ortega that he witnessed injured or dead people from the mortar attacks but told Dr. Benejam he saw only injured people and never mentioned either injured or dead people to Dr. Rambo. D&O at 26; JXs 8 at 1, 9 at 2, 11 at 5. Considering the broad discretion accorded ALJs in weighing the evidence, *Gasparic*, 7 F.3d at 323, and as the ALJ's determination is supported by substantial evidence, we affirm the ALJ's finding that Claimant is only

[9] The ALJ also found Claimant reported conflicting details as to whether the shrapnel hit him on his left shoulder or right shoulder. D&O at 32. In his testimony, at one point, Claimant indicated shrapnel hit his left shoulder, JX 1 at 79-80, but in another instance, he testified it "hurt [him] on [his] right shoulder," JX 1 at 133.

partially credible. *Ceres Gulf. Inc. v. Director, OWCP* [*Plaisance*], 683 F.3d 225, 228 (5th Cir. 2012); *see also Carswell*, 999 F.3d at 27.

We also reject Claimant's assertion that finding his testimony partially credible inherently obviates the need for the ALJ to evaluate the medical evidence or requires him to credit Claimant over the medical experts. Cl.'s Brief at 25-27. At the weighing stage of the causation analysis, finding a claimant credible or partially credible does not automatically provide sufficient evidence to satisfy his burden of proof by a preponderance of the evidence; it is up to the ALJ to weigh all the evidence, accepting or rejecting all or any part of any testimony according to his judgment. *Perini Corp. v. Heyde,* 306 F. Supp. 1321, 1325-1326 (D.R.I. 1969). The ALJ also must independently analyze and discuss the medical evidence to satisfy the Administrative Procedure Act's requirement for a reasoned analysis. 5 U.S.C. §557(c)(3)(A); *Kkunsa*, 59 BRBS at 3-4; *Ballesteros v. Willamette W. Corp.*, 20 BRBS 184, 187 (1988).

Next, we reject Claimant's argument that the ALJ failed to give the opinions of Drs. Ordax Abad, Hernandez Mujica, and D'Luyz Ortega the "special and considerable weight" they deserve due to their status as his treating physicians. Cl.'s Brief at 11-15; *see Kkunsa*, 59 BRBS at 4 (where there is conflicting medical evidence, a claimant's treating physicians are not automatically entitled to significant or special weight on all issues).[10] As Employer presented evidence contrary to the opinions Drs. Ordax Abad, Hernandez Mujica, and D'Luyz Ortega, their opinions are not entitled to "special weight."[11] Rather, the ALJ was required to and did consider all relevant evidence, assess the weight and credibility of each

[10] Claimant cites to *Pietrunti*, 119 F.3d 1035, *Amos v. Director, OWCP*, 153 F.3d 1051 (9th Cir. 1998), *amended*, 164 F.3d 480 (9th Cir. 1999), *cert. denied*, 528 U.S. 809, and *Rivera v. Harris*, 623 F.2d 212 (2d Cir. 1980), in support of his argument. Cl.'s Brief at 11 n.60, 13-14. Unlike this case, in *Pietrunti*, 119 F.3d at 1043-1044, the medical evidence on causation was "uncontroverted and unanimous," and the ALJ erroneously substituted his opinion for the treating physician's opinion. In *Amos*, 153 F.3d at 1054, the issue was whether the claimant's treating physicians proposed a reasonable course of treatment. *See Kkunsa*, 59 BRBS at 4-5.

[11] To the extent Claimant otherwise challenges the weight the ALJ gave to the opinions of Drs. Ordax Abad, Hernandez Mujica, and D'Luyz Ortega, his arguments amount to a request to reweigh the evidence, which the Board is not empowered to do. *See Gasparic*, 7 F.3d at 323; *Volpe*, 671 F.2d at 700. Accordingly, we affirm the ALJ's weighing of their opinions. D&O at 27-28.

opinion, and explain his rationale in reaching a decision on the evidence. *Kkunsa*, 59 BRBS at 4-5.

Finally, we reject Claimant's argument that the ALJ erred in weighing the medical opinions of Drs. Benejam and Rambo. Cl.'s Brief at 15-20. The ALJ gave several reasons for finding Dr. Rambo's opinion more credible than Dr. Benejam's. D&O at 29-32. Specifically, the ALJ found Dr. Rambo possessed "extensive" educational and clinical experience. *Id.* at 31-32. In addition, he determined the doctor supplemented his opinion by interviewing Claimant about his employment, social history, and medical history, all while administering a well-described "battery of tests" to detect the presence of PTSD and symptom exaggeration. *Id.* at 30-31; *see* JX 12 at 1-6. He credited Dr. Rambo's assessment of Claimant's symptom validity testing. D&O at 30. For instance, he highlighted the importance of failed objectivity measures and noted that while Dr. Rambo stated Claimant's PCL-5 and CAPS-5 scores are above the recommended cutoff for a PTSD diagnosis, he discounted those results based on objective validity scores that the MMPI-2-RF and TRIN-r scale tests produced.[12] *Id.* at 30-31. For these reasons, the ALJ permissibly assigned "significant" and "controlling" weight to Dr. Rambo's opinion.[13] *See Pietrunti*, 119 F.3d at 1042; D&O at 30-32.

Conversely, the ALJ was not persuaded by Dr. Benejam's opinion due to factual errors and flaws in its reasoning. D&O at 28-30, 32. While the ALJ found Dr. Benejam's opinion well-documented, he discredited it for relying in part on the treating physicians' reports to inform his diagnosis, as the ALJ found those reports neither well-reasoned nor well-documented because they lacked independent assessments, clinical interviews, diagnostic testing, and support for their diagnoses and findings. *Id.* at 27-29, 32. He also found Dr. Benejam failed to adequately consider the experience and training for each

[12] The ALJ noted Claimant's responses "indicate[d] a pattern of over-reporting or exaggeration of symptoms in several domains" as the MMPI-2-RF validity scales "were strongly indicative of exaggeration" and the TRIN-r scale "was invalid and suggestive of a noncooperative test taking approach." D&O at 30 (citing JX 12 at 5-6).

[13] We reject Claimant's assertion that the ALJ omitted discussing whether Dr. Rambo's self-identification as an independent medical examiner (IME) affected his decision. Cl.'s Brief at 15-16. Dr. Rambo is Employer's expert, JX 12, as the ALJ stated. D&O at 10-11. The doctor's self-description as an IME played no role in the ALJ's weighing of the medical opinions or his credibility determination regarding Dr. Rambo's opinion specifically, and Claimant has not explained how this alleged omission makes any difference in the outcome of this case. *Shinseki*, 556 U.S. at 409.

treating physician.[14] *Id.* at 32. The ALJ further noted Dr. Benejam's reliance on the supposed consistency between Claimant's reported symptoms and exposure history across his testimony and the treating physicians' opinions is unsubstantiated and subverted by Claimant's admission that he provided the written narrative to both providers. *Id.* at 29. Additionally, the ALJ determined Dr. Benejam displayed an unwillingness to accept test results when they did not support his conclusion. *Id.* at 29-30. For example, the ALJ observed that Dr. Benejam administered two tests, the SIMS and the "Wisdom et. al (2010)." The SIMS test score of 18 suggested "the presence of feigning" based on a cutoff score of 14, JX 11 at 9, but Dr. Benejam relied on the "Wisdom et. al (2010)" cutoff score of 24 to conclude Claimant "does not appear to be feigning." *Id.* The ALJ found Dr. Benejam rejected his own test standard in favor of another to endorse the medical determination that Claimant was not feigning his symptoms. *Id.* He also highlighted multiple errors that detracted from the doctor's credibility, suggesting he is "recycl[ing]" portions of his report from those regarding other claimants.[15] *Id.* at 30, 32. Additionally, he observed that Dr. Benejam stated Claimant met all the DSM-5 criteria for diagnosing PTSD, but failed to identify the symptoms met under each DSM-5 criterion.[16] *Id.* at 30.

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[14] The ALJ indicated Dr. Benejam's report makes no mention of the qualifications and credentials of Claimant's treating physicians. D&O at 32 n.20. He also noted Dr. Benejam failed to consider that Dr. D'Luyz Ortega's curriculum vitae states she is educated and trained in child psychology, but there is no evidence she has any substantial training on diagnosing conditions like PTSD in adults. *Id.* at 32; *see* JX 20.

[15] The ALJ acknowledged the practicality of utilizing similar common drafting language across medical opinions from different cases. D&O at 30. However, he found it "troubling" when Dr. Benejam stated Claimant "joined as [an] armed security guard (later as a Team Leader) in Iraq with Greystone," JX 11 at 4, as Claimant never reported that he worked as a "Team Leader" for a company called "Greystone," and therefore determined there is no factual basis for this statement. D&O at 30, *see* JXs 1, 14 at 4. The ALJ also noted Dr. Benejam incorrectly referred to Claimant as "Mr. Barba" in his opinion. D&O at 30; *see* JX 11 at 10.

[16] The DSM-5 Criteria A through H for diagnosing PTSD involve exposure to a traumatic event, followed by the presence of specific symptoms in four categories: intrusion (at least one symptom required), avoidance (at least one symptom required), negative alterations in cognition and mood (at least two symptoms required), and arousal and reactivity (at least two symptoms required). These symptoms must be present for at least one month and cause significant distress or impairment in functioning. *See* American Psychiatric Association (March 2022) *Diagnostic and Statistical Manual of Mental Disorders* (5th ed., text rev.), https://doi.org/10.1176/appi.books.9780890425787.

Thus, the ALJ permissibly concluded these factors undermine Dr. Benejam's opinion. *See Pietrunti*, 119 F.3d at 1042; D&O at 30, 32.

Claimant's arguments regarding the ALJ's weighing of the medical opinions amount to a request to reweigh the evidence which the Board is not empowered to do. *See Gasparic*, 7 F.3d at 323; *Volpe*, 671 F.2d at 700. Rather, because the ALJ permissibly exercised his discretion in weighing the medical opinions, provided full explanations, and supported his rational credibility determinations, we affirm his finding that Claimant failed to establish a compensable, work-related psychological injury by a preponderance of the evidence.[17] *Carswell*, 999 F.3d at 27; *Pietrunti*, 119 F.3d at 1042; *Hughes*, 289 F.2d at 405; *Kkunsa*, 59 BRBS at 3-4; *Sistrunk v. Ingalls Shipbuilding, Inc.*, 35 BRBS 171, 174 (2001); *Coffey v. Marine Terminals Corp.*, 34 BRBS 85, 87 (2000); *Norwood v. Ingalls Shipbuilding, Inc.*, 26 BRBS 66, 68 (1992); *Bruce v. Bath Iron Works Corp.*, 25 BRBS 157, 160 (1991); D&O at 32.

[17] Claimant's argument that the ALJ erroneously failed to weigh his photos, employment certificates and letters, employment contracts, discovery responses, and filings with the Department of Labor is inadequately briefed, as Claimant has not explained the relevance of those documents to the ALJ's causation analysis or why the ALJ's consideration of them could have led to a different outcome. Cl.'s Brief at 24-25; *Shinseki*, 556 U.S. at 409; *Montoya v. Navy Exch. Serv. Command*, 49 BRBS 51, 52 n.1 (2015); *Plappert v. Marine Corps Exch.*, 31 BRBS 109, 111 (1997).

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
Administrative Appeals Judge