U.S. Department of Labor

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

BRB No. 24-0207

ERNESTO GALLEGOS LAGOS	)	
	)	
Claimant-Petitioner	)	
	)	
v.	)	**NOT-PUBLISHED**
	)	
SOC, LLC	)	
	)	
and	)	DATE ISSUED: 01/23/2026
	)	
CONTINENTAL INSURANCE COMPANY	)	
	)	
Employer/Carrier-Respondents	)	
		DECISION and ORDER

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

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

Krystal L. Layher and Erendira Cruz (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) Noran J. Camp's Decision and Order Denying Benefits (2021-LDA-02009) 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).[1] 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. 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 Triple Canopy as a "Fixed Guard" from October 15, 2005, to June 2011, and then as an escort driver for Employer from July 2011 to July 24, 2012, after which he returned to his native country, Peru. Claimant's Exhibit (CX) 19; Employer's Exhibits (EXs) 1 at 24-26, 32-33, 8. He testified he was subjected to frequent alarms, rocket attacks, mortar attacks, and shootings while working for both Triple Canopy and Employer, including some resulting in injury to others, and he often feared for his life. EX 1 at 27-31, 77-80. After completing his contract with Employer in July 2012, Claimant stopped working in Iraq and never went back. *Id.* at 46. Upon his return to Peru, he worked as a taxi driver from 2012 to 2019 during his free time, as an electrician when jobs were available, and with his wife selling home products or plastics beginning in 2014. *Id.* at 33-36.

Claimant testified his work for Employer in Iraq caused the following problems: issues with walking, hearing, buzzing in his ears, blood pressure, triglycerides, mood, sleep, nightmares, and socializing. EX 1 at 33, 51, 54-55 59. He stated his hearing problems, including the buzzing in his ears, commenced while he was in Iraq, and he became aware of some of his other symptoms approximately one month after returning to Peru. *Id.* at 52-54. Further, he testified his wife, friends, and brother told him his "behavior changed," he was isolating, and he was "too crazy." *Id.* at 54-56. Claimant also discussed an incident when he woke up from a nightmare to find himself in the street in his underwear. *Id.* at 57-58. After this incident, he sought medical help. *Id.* at 60.

On November 12, 2019, Claimant underwent audiometric testing conducted by audiologist Dr. Sonia Peña Galindo. CXs 13, 14. Dr. Peña Galindo opined the audiogram demonstrated noise-induced mild left sensorineural hearing loss. CX 14 at 2-3. She further stated the "the acoustic damage caused in the work environment is irreversible." *Id.* at 3. Also, she determined Claimant cannot return to work in a war zone or an area with "high intensity noises." *Id.*

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

On November 16, 18, and 19, 2019, psychologist Dr. Norma Sanchez Aquino began treating Claimant. CXs 15, 16. Dr. Sanchez Aquino diagnosed Claimant with chronic post-traumatic stress disorder (PTSD) and family issues. CX 16 at 4. She recommended psychotherapeutic cognitive behavioral therapy, narrative therapy, relaxation techniques, and bibliotherapy. *Id.*

On November 20, 2019, Claimant visited with psychiatrist Dr. J. Angel Manrique Galvez. CXs 11, 12. Dr. Manrique Galvez diagnosed Claimant with PTSD caused by his employment in Iraq. CX 12 at 7. He prescribed medications and recommended cognitive behavioral therapy. *Id*. at 8.

On November 5, 2021, clinical psychologist Dr. Jessica Elizabeth Groberio evaluated Claimant at Employer's request. EXs 9, 11. She interviewed Claimant, reviewed his medical records, and conducted psychological testing.[2] EX 9 at 2-7. She concluded there was no objective data to support the existence of a psychological condition and there was no evidence his work with Employer caused any psychological condition. *Id*. at 9.

On June 28, 2022, at Employer's request, audiologist Dr. Laurie S. Hebert conducted a peer review of Dr. Peña Galindo's November 2019 audiogram. EXs 12, 13; *see* CX 14 at 2-4. Dr. Hebert opined Claimant's mild left sensorineural hearing loss is asymmetric and occurs at lower frequencies and, therefore, is not the result of work-related noise exposure. EX 12 at 1-2.

On October 3, 2022, Claimant was evaluated by psychologist Dr. Gustavo R. Benejam, who interviewed Claimant, conducted a mental status examination, administered psychological testing,[3] and reviewed Claimant's medical records. CXs 10 at 25, 17. Dr.

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[2] Dr. Groberio 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 Minnesota Multiphasic Personality Inventory- 2 Restructured Form (MMPI-2-RF); the Neurobehavioral Symptom Inventory (NSI); the PTSD Checklist for DSM-5 (PCL-5); the Structured Inventory of Malingered Symptomatology (SIMS); the Test of Memory and Malingering (TOMM); the World Health Organization Disability Assessment Schedule 2.0 (WHODAS 2.0); and the Rey-15 Item Test. EXs 9 at 7, 10 at 2-3.

[3] 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

Benejam diagnosed Claimant with PTSD, major depressive disorder, and generalized severe anxiety disorder based on his reported symptoms and test results. CX 17 at 18. He further opined the PTSD was attributable to Claimant's "work-related overseas experiences."[4] *Id.* at 6.

Meanwhile, Claimant had filed a claim under the Act on February 13, 2020, seeking benefits for his alleged work-related psychological condition and hearing loss. CX 1 at 3; EX 2 at 1. Employer first became aware of Claimant's alleged injuries on February 24, 2020, and controverted the claim on March 9, 2020. EXs 4, 5. The parties agreed to a decision on the record without a formal hearing. CX 3.

On February 8, 2024, the ALJ issued his Decision and Order Denying Benefits (D&O). He found Claimant failed to prove he suffered work-related psychological and hearing loss injuries. D&O at 33-35. While the ALJ found Claimant invoked the Section 20(a) presumption of compensability as to both his psychological and hearing loss claims, 33 U.S.C. §920(a), he further found Employer presented sufficient evidence to rebut the presumption. *Id.* Upon weighing the medical opinion evidence and Claimant's deposition testimony,[5] the ALJ found Claimant failed to prove by a preponderance of the evidence that he suffers from a work-related psychological condition or hearing loss. *Id.* at 13-35.

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]

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). CX 17 at 7-9.

[4] On May 5, 2022, Dr. Groberio issued an addendum report criticizing Dr. Benejam's report and reiterating her medical conclusions in her original report. EX 10 at 2-4.

[5] The ALJ found Claimant's testimony credible. D&O at 33-34.

[6] As the parties do not challenge the ALJ's findings on invocation of the Section 20(a) presumption for Claimant's alleged PTSD and hearing loss claims, we affirm them. *Scalio v. Ceres Marine Terminals, Inc.*, 41 BRBS 57, 58 (2007); D&O at 33-34.

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) (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 no relationship exists between the alleged injury and a claimant's employment is sufficient to rebut the presumption. *Suarez v. Serv. Emps. Int'l, Inc.*, 50 BRBS 33, 36 (2016); *Cline v. Huntington Ingalls, Inc.*, 48 BRBS 5, 6-7 (2013); *O'Kelly v. Dep't of the Army/NAF*, 34 BRBS 39, 41-42 (2000); *Duhagon v. Metro. Stevedore Co.*, 31 BRBS 98, 100 (1997), *aff'd*, 169 F.3d 615 (9th Cir. 1999); *Holmes v. Universal Mar. Serv. Corp.*, 29 BRBS 18, 20 (1995).

Claimant contends the ALJ erred in finding the opinions of Drs. Groberio and Hebert sufficient to rebut the Section 20(a) presumption because the ALJ disregarded substantial evidence from Claimant that establishes his psychological injury and hearing loss arose out of his work for Employer. 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 evidence "has no proper place in determining whether [employer] met its burden of production." *Ogawa*, 608 F.3d at 651. The weight given to Claimant's supporting evidence does not affect Employer's burden of production on rebuttal as the credibility of the evidence is not a consideration at the presumption's 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 may 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).

Employer relied on Dr. Groberio's conclusion that there is no reliable evidence Claimant has a psychological condition based on his testing and interview.[7] EX 9 at 7-9. Dr. Groberio concluded that "[o]verall, results from the CAPS-5 did not support a diagnosis of PTSD."[8] *Id.* at 8. She further concluded the other tests did not show "clinically elevated symptoms or associated functional impairment" and that her evaluation did not support any psychiatric diagnosis. *Id.* at 9. In addition, she indicated Claimant's SIMS scores are "suggestive of possible symptom magnification." EX-10 at 3. She supported her opinion that Claimant did not show sufficient impairment by stating he "reported he no longer experiences issues with customers," "work[s] at the market 10 hours a day, 6-7 days a week," and had a "warm and loving conversation with his wife" during Dr. Groberio's evaluation. *Id.* at 4.

Regarding Claimant's hearing loss claim, Employer relied on Dr. Hebert's opinion that Claimant's hearing loss is not related to noise exposure during his work with Employer. EX 12 at 2. Dr. Hebert reasoned that noise exposure typically creates a high frequency sensorineural hearing loss between 2000-8000 Hz, but Claimant's audiogram revealed loss at lower frequencies – 250 Hz to 1000 Hz. *Id.* In addition, Dr. Hebert observed that Claimant's hearing loss is atypical of noise exposure because noise exposure creates "symmetric hearing loss" and Claimant's audiogram indicated his is "asymmetric," with hearing loss in his left ear and normal hearing in his right ear. *Id.*

The opinions of Drs. Groberio and Hebert directly contradict the Section 20(a) presumption that Claimant has a psychological injury and hearing loss, respectively, and

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[7] Specifically, Dr. Groberio reported that on the PCL-5 test, Claimant received a "raw score" of "25," which fell within normal limits. EX 9 at 7. In the BAI and BDI-II tests, Claimant endorsed symptoms associated with a mild level of anxiety and did not experience a significant level of depression, thereby giving him a "raw score" of "10" on both tests. *Id.* Additionally, the WHODAS 2.0 scale indicated Claimant's general disability score was in the "mild range." *Id.* at 8. Claimant's performance validity testing fell within the invalid range. *Id.* at 7. Also, Claimant's performance on symptom validity testing was indicative of symptom amplification related to somatic and cognitive complaints. *Id.* Dr. Groberio further reported Claimant had an invalid profile on the MMPI-2-RF due to overreporting. *Id.*

[8] Dr. Groberio stated Claimant's endorsements met threshold levels for criterion A, criterion C (avoidance symptoms), and criterion E (arousal and reactivity symptoms). No symptoms under criterion B (intrusions) met threshold levels while the only clinical elevated symptom under criterion D (cognitions and mood symptoms) was "persistent negative emotions." EX-9 at 8.

are the kinds of evidence "a reasonable mind might accept as adequate" to support those conclusions. *Rainey*, 517 F.3d at 637. Therefore, they constitute substantial evidence that is legally sufficient to rebut the presumption. *Id.*; *Cline*, 48 BRBS at 6-7; *Suarez*, 50 BRBS at 36; *O'Kelley*, 34 BRBS at 41-42; *Duhagon*, 31 BRBS at 100; *Holmes*, 29 BRBS at 20. Consequently, we affirm the ALJ's determination that Employer rebutted the Section 20(a) presumption for both alleged injuries.[9] D&O at 33-34.

Weighing the Evidence

Having affirmed the ALJ's findings on invocation and rebuttal, we next consider the issue of causation on the psychological injury claim and, briefly, on the hearing loss claim.[10] The ALJ resolved this issue 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; *Bolden v. G.A.T.X. Terminals Corp*., 30 BRBS 71 (1996); *Santoro*, 30 BRBS at 174. 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

[9] To the extent Claimant asserts Drs. Groberio's and Hebert's opinions do not constitute substantial evidence because they are not credible for various reasons, we reject Claimant's assertions. Although the ALJ appears to have assessed weights to each provider's opinion before his analysis and at both the invocation and rebuttal stages, he nevertheless properly invoked the presumption and found it rebutted based on burdens of production and the evidence of record. D&O at 13-30, 33-35; *see Ogawa*, 608 F.3d at 651; *Rose*, 56 BRBS at 37.

[10] We reject Claimant's arguments on the ALJ's weighing of the hearing loss evidence. The ALJ analyzed Dr. Hebert's peer review of Dr. Peña Galindo's November 12, 2019 audiogram and credited Dr. Hebert's qualifications and criticisms of Dr. Peña Galindo's audiogram for lacking several essential components such as calibration data, required testing at 3000 Hz, "tympanometry," "speech reception threshold," "acoustic reflex responses," "otoacoustic emission testing," and test result validation. The ALJ found Dr. Hebert's opinion well-reasoned and supported. D&O at 30; Cl.'s Brief at 12-13; CX 14 at 2-4; EX 12 at 1-3; *see* 33 U.S.C. §908(c)(13)(E); 20 C.F.R. §702.441(d). Weighing the hearing loss claim evidence as a whole, the ALJ permissibly found Dr. Hebert's opinion outweighs Claimant's testimony and the treatment record from Dr. Peña Galindo. D&O at 30, 35.

party's evidence. *Santoro*, 30 BRBS at 174-175; *see* Black's Law Dictionary (12th ed. 2024); *see also* Barron's Law Dictionary (1984).

In challenging the ALJ's weighing of the psychological injury evidence as a whole, Claimant poses multiple contentions. He contends the ALJ erred in not giving his treating physicians' opinions special weight. Next, he contends the ALJ erred in using nonrecord evidence to discredit and give less weight to Dr. Benejam's opinion. He also asserts the ALJ erred in weighing the medical opinions against each other and in weighing Dr. Groberio's opinion against Claimant's credible testimony, arguing the ALJ's determinations are not supported by substantial evidence.

First, we reject Claimant's argument that the ALJ failed to give the opinions of Drs. Manrique Galvez, Peña Galindo, and Sanchez Aquino the "special and considerable weight" they deserve due to their status as his treating physicians. Cl.'s Brief at 14-17; *see Kkunsa v. Constellis Grp./Triple Canopy, Inc.*, 59 BRBS 1, 4 (2025) (where there is conflicting medical evidence, a claimant's treating physicians are not automatically entitled to significant or special weight on all issues).[11] As Employer presented evidence contrary to the opinions of Drs. Manrique Galvez, Peña Galindo, and Sanchez Aquino, their opinions are not entitled to "special weight."[12] Rather, the ALJ was required to and did consider all relevant evidence, assess the weight and credibility of each opinion, and explain his rationale in reaching a decision on the evidence. *Kkunsa*, 59 BRBS at 4-5.

Next, Claimant contends the ALJ erred in weighing Dr. Benejam's opinion on its own merits and against Dr. Groberio's opinion when ascertaining whether Claimant has a

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[11] Claimant cites to *Pietrunti v. Director, OWCP*, 119 F.3d 1035 (2d Cir. 1997), *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 14. However, in *Kkunsa*, 59 BRBS at 4-5, the Board explained these cases are distinguishable. That is, 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, while in *Amos*, 153 F.3d at 1054, the issue was whether the claimant's treating physicians proposed a reasonable course of treatment.

[12] To the extent Claimant otherwise challenges the weight the ALJ gave to the opinions of Drs. Manrique Galvez, Peña Galindo, and Sanchez Aquino, 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.

work-related psychological condition. Cl.'s Brief at 22-23. We reject Claimant's arguments.

In weighing 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); *Calbeck v. Strachan Shipping Co*., 306 F.2d 693 (5th Cir. 1962), *cert. denied*, 372 U.S. 954 (1963). The ALJ must explain his rationale in reaching a decision on the evidence, *Kkunsa*, 59 BRBS at 4-5, 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.

The ALJ gave several reasons for finding Dr. Benejam's opinion less credible. First, the ALJ saw a discrepancy with Dr. Benejam's qualifications: Dr. Benejam stated he is a "Psy.D," but he also indicated he received a "Ph.D. in Clinical Psychology" from Carlos Albizu University. D&O at 19 n.29; CX 17 at 2. However, his curriculum vitae states he has a "Psy.D" from Carlos Albizu University. D&O at 19 n.29; CX 10 at 25. The ALJ found the "contradictory assertions" about the doctor's degree cast doubt on his opinion. D&O at 27. Additionally, the ALJ noted Dr. Benejam did not always explain the significance of the tests he administered or their scores, *Id.* at 21-23, and he displayed an unwillingness to accept test results when they did not support his conclusion. *Id.* at 27. As an example of the latter, the ALJ noted Dr. Benejam administered two tests, the SIMS and the "Wisdom et. al (2010)." The SIMS test results suggested "the presence of feigning," CX-17 at 9, but Dr. Benejam relied on the "Wisdom et. al (2010)" to conclude Claimant "does not appear to be feigning." *Id.* The ALJ found Dr. Benejam rejected his own test standard over another to endorse the favorable medical determination that Claimant was not feigning his symptoms. D&O at 27. In addition, the ALJ noted Dr. Benejam's assessment relied on an incident about which Claimant never testified. *Id.* at 19 n.32. For these reasons that raised questions in the ALJ's mind regarding Dr. Benejam's credibility, the ALJ permissibly assigned Dr. Benejam's opinion minimal weight. D&O at 27, 34.[13]

[13] The ALJ also questioned Dr. Benejam's conclusions because his report contained language from two publications he did not write. D&O at 23-27; CX 17 at 8-9. The ALJ

We also reject Claimant's assertion that the ALJ erred in giving greater weight to Dr. Groberio's opinion over Dr. Benejam's. Cl.'s Brief at 20-22. The ALJ found Dr. Groberio well-qualified to provide an opinion as to Claimant's psychological condition due to her education and experience, her interview with Claimant, and her review of his records. D&O at 18. Further, the ALJ determined her opinion was supplemented by a "battery of tests" she administered to detect the presence of PTSD and symptom exaggeration.[14] *Id.*; *see* EX 9 at 7-9. He also found Dr. Groberio gave a reasoned explanation for her conclusions, and her description of Claimant's symptoms "substantially concurred with [his] testimony." D&O at 15; *see* EX-9 at 4-5, 7-9. Therefore, the ALJ permissibly assigned substantial weight to her opinion.[15] *See Pietrunti*, 119 F.3d at 1042; D&O at 18, 34. Weighing the evidence as a whole, the ALJ assigned Dr. Manrique Galvez's opinion

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took official notice not of the truth of the content but of its existence and considered it in his weight assessment. Claimant contends the ALJ's use of this nonrecord evidence to discredit Dr. Benejam is procedurally defective and deprived him of the opportunity to respond, thereby violating both the APA, 5 U.S.C. §556(e), and his procedural due process rights. Cl.'s Brief at 17-19. While an ALJ cannot consider evidence outside of the record in deciding the claims 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; *see* 5 U.S.C. §556(e); *Lindsay v. Bethlehem Steel Corp.*, 18 BRBS 20, 23 (1986). Nevertheless, any improper official notice the ALJ took in this case is harmless because he also provided sufficient rationale for questioning Dr. Benejam's conclusions based on evidence in the record. D&O at 26-27, 34; *see Fleishman v. Director, OWCP*, 137 F.3d 131, 135 (2d Cir. 1998), *cert. denied*, 525 U.S. 981(1998).

[14] While the ALJ noted Dr. Groberio's failure to state the names and explanations for some of the tests she conducted, he found her addendum report partially cured these deficiencies and the remaining deficiencies did not affect her reasoning. D&O at 18; *see* EX 10 at 2-3.

[15] We reject Claimant's notion that the ALJ omitted discussing whether Dr. Groberio's self-identification as an independent medical examiner (IME) affected his decision. Cl.'s Brief at 19. Dr. Groberio is Employer's expert, EX 9, as the ALJ so stated. D&O at 15. As 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. Groberio's opinion specifically, Claimant has not explained how this alleged omission makes any difference in the outcome of this case. *Shinseki v. Sanders*, 556 U.S. 396, 409 (2009) (appellant must explain how the "error to which [it] points could have made any difference").

some weight and Dr. Benejam's opinion minimal weight. He then properly concluded the substantial weight he assigned Dr. Groberio's opinion is greater than the totality of Claimant's evidence. D&O at 34.

Finally, we reject Claimant's assertion that finding a claimant's testimony credible inherently obviates the need for the ALJ to evaluate the medical evidence or requires him to credit the claimant over a medical provider. Cl.'s Brief at 23-27. At the weighing stage of the causation analysis, finding a claimant credible does not automatically provide sufficient weight to prove causation by a preponderance of 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 APA'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).

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 with substantial evidence, we affirm his finding that Claimant failed to establish a compensable, work-related psychological injury or hearing loss by a preponderance of the evidence.[16] *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 33-35.

[16] 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 27-29; *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
Acting Administrative Appeals Judge