

U.S. Department of Labor

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



BRB No. 24-0054

MUGISA COLLINS

Claimant-Petitioner

v.

SOC, LLC

and

CONTINENTAL INSURANCE COMPANY
(CNA)

Employer/Carrier-
Respondents

NOT-PUBLISHED

DATE ISSUED: 07/09/2025

DECISION and ORDER

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

Matthew J. Rolla (Garfinkel Schwartz, P.A.), Maitland, Florida, for
Claimant.

Michael T. Quinn, Edwin B. Barnes, and Sara M. Theodoros (Thomas
Quinn, LLP), San Francisco, California, for Employer and Carrier.

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

PER CURIAM:

Claimant appeals Administrative Law Judge (ALJ) Timothy J. McGrath's Decision
and Order Denying Benefits (2021-LDA-05647) 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 Associates, Inc.*, 380 U.S. 359 (1965).

Claimant worked for Employer as a security guard in Iraq from March 2010 through November 2011. Hearing Transcript (HT) at 16; Joint Exhibit (JX) 1 at 2. The day he arrived, there was a rocket attack while he was at target practice. He had to run to a bunker, and he saw a cloud of dust about fifteen meters from the bunker. HT at 20-21; Employer's Exhibit (EX) 6 at 7-8 (Deposition Transcript (Tr.) 27, 30-31). In March 2011, while he was working in a tower, a rocket hit about fifteen meters away and the tower began "shifting."² HT at 22; EX 6 at 10-11 (Tr. 39-42). He experienced similar incidents in November 2010 and July 2011, when rockets hit close to towers in which he was working, kicking up clouds of dust. EX 6 at 7, 9-11 (Tr. 28, 34-39, 42-44). In October 2011, a rocket hit a dining facility while he was there. *Id.* at 7, 12 (Tr. 28, 45-47). Claimant also testified he worried about chemical exposure through insects because the base where he was stationed was formerly used to make chemical weapons. *Id.* at 13 (Tr. 50-51). These incidents frightened Claimant, and he testified he had trouble sleeping and would think about them all the time, even while off duty. HT at 21, 24-25.

When Claimant returned to his home in Uganda,³ he attempted to find work but was unsuccessful due to the remoteness and small size of his village and neighboring towns. HT at 27, 32-33; EX 6 at 14 (Tr. 53). Instead, he began attending college in November 2012 to become an agriculture teacher. HT at 27-28; EX 6 at 4, 14 (Tr. 14-15, 55). In addition to his studies, Claimant participated in music, dance, and drama while in school. He testified he felt better because of all the activity. HT at 28; EX 6 at 15 (Tr. 58-60). Unfortunately, he was unable to complete his studies due to lack of funds. HT at 30-31; EX 6 at 4, 14 (Tr. 15, 55-56). As a result, he returned to his small village in 2014, where

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

² Claimant identified this particular incident as the worst he experienced while working in Iraq. EX 6 at 13 (Tr. 50).

³ Claimant left Iraq because his employment contract ended and the base closed. HT at 46-47; EX 6 at 5-6 (Tr. 20-21).

he lives with his wife. HT at 31-32; EX 6 at 14-15 (Tr. 56-57). He helps her with their farm, selling excess crops, but he has not been employed since his return to Uganda. HT at 34-35; EX 6 at 3-4 (Tr. 10-13).

According to Claimant, when he returned to his home in 2014, he began to “start thinking about what happened in Iraq.” HT at 36. He testified he was experiencing “pain in the body, headache, and the feeling of...isolating [him]self and bad thoughts and always thinking about what happened.” *Id.* at 49. In addition, he reported being angry, worried, wanting to be alone, loss of appetite, and oversleeping, which all started while he was still in Iraq. EX 6 at 17-18 (Tr. 68-69). He testified these symptoms started to worsen during 2014, and then he began experiencing nightmares and flashbacks. *Id.* at 18, 20 (Tr. 70, 77-80). Initially, he went to traditional healers, believing his symptoms were the result of witchcraft or a curse, and continued to see different traditional healers through 2019. HT at 38-40; EX 6 at 19 (Tr. 76).

At his neighbor’s recommendation, Claimant first sought medical treatment for his symptoms in July 2020 from Psychological Clinical Officer (PCO) Buhese Wilson at Mbarara Regional Hospital. HT at 37, 40-41; EX 6 at 21 (Tr. 82-83). PCO Wilson diagnosed Claimant with Post-Traumatic Stress Disorder (PTSD) and prescribed medications, which Claimant testified has helped with his sleeping issues. HT at 42; CX 7. Claimant continued treating with PCO Wilson about once every three months. EX 6 at 23 (Tr. 91). PCO Wilson noted Claimant reported persistent headaches, chest and back pain, flashbacks, nightmares, isolation, reduced libido, palpitations, and poor sleep. CX 7 at 2. He opined that “constant exposure to traumatic events such as killings, torture, bomb blasts and sandstorms greatly contributed to” Claimant’s condition. *Id.* He concluded Claimant could work, but not in a warzone. *Id.* at 3.

Claimant filed a claim for compensation benefits on July 24, 2020. CX 1. Employer controverted the claim and had Claimant evaluated by psychologist Dr. Melissa Ogden, who opined Claimant did not suffer from employment-related PTSD or any psychological impairment and could perform unrestricted work. CX 2; EX 1 at 9-10.

The ALJ issued a Decision and Order Denying Benefits (D&O) on October 12, 2023. He found Claimant invoked a prima facie case of compensability under Section 20(a), 33 U.S.C. §920(a), and Employer rebutted the presumption with Dr. Ogden’s medical opinion. D&O at 7. Upon weighing the evidence, the ALJ found Claimant to be a “moderately credible” witness but found PCO Wilson’s records lacked support and therefore accorded them minimal weight. *Id.* at 8-9. Conversely, the ALJ accorded Dr. Ogden’s report and testimony great weight, finding them well-documented and well-reasoned. *Id.* at 9. Accordingly, the ALJ found Claimant failed to establish a work-related psychological injury and denied his claim. *Id.* at 10.

Claimant appeals, arguing the ALJ erred in weighing the evidence, particularly with respect to his evaluation of and reliance on Dr. Ogden's opinion.⁴ Employer responds, urging affirmance.

If a claimant invokes the Section 20(a) presumption that his injury is work-related and the employer successfully rebuts the presumption, as in this case, it drops out of the analysis and the issue of causation must be resolved based on the evidence of record as a whole with the claimant bearing the burden of persuasion by a preponderance of the evidence. *Rainey v. Director, OWCP*, 517 F.3d 632, 634 (2d Cir. 2008); *Santoro v. Maher Terminals, Inc.*, 30 BRBS 171, 175 (1996); *see also Director, OWCP v. Greenwich Collieries*, 512 U.S. 267 (1994). In evaluating the evidence, the ALJ is entitled to weigh the expert opinion evidence and draw his own inferences from it, and he is not bound to accept the opinion or theory of any particular medical expert. *See 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); *Kkunsu v. Constellis Group/Triple Canopy, Inc.*, 59 BRBS 1, 3-4 (2025). The Benefits Review Board is not free to re-weigh the evidence or to make credibility determinations and will not interfere with the ALJ's credibility determinations unless they are "inherently incredible or patently unreasonable." *Cordero v. Triple A Mach. Shop*, 580 F.2d 1331, 1335 (9th Cir. 1978); *see also Sealand Terminals, Inc. v. Gasparic*, 7 F.3d 321, 323 (2d Cir. 1993).

The ALJ weighed the medical records and opinion of PCO Wilson against Dr. Ogden's opinion. He noted PCO Wilson diagnosed Claimant with PTSD and panic attacks as a result of his employment in Iraq. D&O at 8. However, he found PCO Wilson's records contained only "cursory" descriptions of Claimant's symptoms with no indication as to their severity, frequency, or progression. *Id.*; *see CX 7*. While noting PCO Wilson's list of Claimant's reported symptoms remained "fairly constant,"⁵ the ALJ further noted there were several changes to the dosages and types of medication prescribed with no explanation as to why these changes were warranted despite Claimant's unchanging

⁴ Claimant does not challenge the rebuttal finding. *Scalio v. Ceres Marine Terminals, Inc.*, 41 BRBS 57, 58 (2007). He also explains he is not seeking either a reweighing of the evidence or a review of Dr. Ogden's findings or credibility. Rather, "[t]o be clear, ... [Claimant's] sole request is for [the Board] to scrutinize the ALJ's process: specifically, to examine whether the ALJ's findings and conclusions were rational in light of the evidence before him." Cl. PR at 16.

⁵ There was only one symptom – reduced libido – that the ALJ found listed in PCO Wilson's medical questionnaire that was not present in any other medical record. D&O at 8-9; *see CX 7* at 2.

symptoms. D&O at 8-9; CX 7 at 1, 6, 8-9, 11. Further, the ALJ found PCO Wilson's records also lacked any references to Claimant's specific traumatic experiences while working in Iraq, other than reported exposure to "killings, torture, [and] bomb blasts," which did not align with Claimant's testimony. D&O at 8-9; *see* CX 7 at 2. For these reasons, as well as the illegibility of PCO Wilson's handwritten notes and his providing two different dates of preparation on the medical questionnaire, the ALJ gave minimal weight to PCO Wilson's diagnosis of employment-related PTSD. D&O at 8-9; *see* CX 7 at 2-3.

Conversely, the ALJ gave great weight to Dr. Ogden's opinion, finding it well-reasoned and well-documented. D&O at 9. He found Dr. Ogden "persuasively explained" how Claimant demonstrated behavior inconsistent with a "debilitating psychological condition such as PTSD," as he was able to function with no symptoms for two years after exposure, during which time he attended school and participated in extracurricular group activities. *Id.* at 9-10 (citing EX 1 at 8-9; EX 2 at 7-8 (Tr. 21, 25)). In that regard, the ALJ noted Dr. Ogden found Claimant's "seemingly out of the blue" onset of symptoms in 2012 "entirely inconsistent with the presence of a work-related psychological condition that allegedly stems from trauma experienced in 2010." *Id.* at 9 (citing EX 2 at 18 (Tr. 66)). The ALJ also noted Claimant failed to explain the severity of his symptoms or how they affected his daily life and concluded his "main issue...is his inability to find work, which is caused not by his psychological symptoms but by the material conditions in Uganda." *Id.* at 10.

Claimant argues the ALJ misrepresented Dr. Ogden's "treatment" of Claimant's psychological testing results. Claimant's Appeal of the ALJ's Decision and Order Denying Benefits (Cl. PR) at 7-9. As part of her evaluation, Dr. Ogden administered two symptom validity tests: the Test of Memory Malingering (TOMM) and the Morel Emotional Numbing Test (MENT). EX 1 at 1, 6-7; EX 2 at 4 (Tr. 9). Claimant's results for both tests were within normal limits. EX 1 at 7. In his decision, the ALJ stated:

Dr. Ogden took great care to explain the relevance of the testing she administered and why Claimant's results, which did not indicate feigning or malingering, did not alter her conclusion that Claimant does not have a work-related psychological injury.

D&O at 9. But Claimant maintains this assessment is not accurate, as Dr. Ogden's report includes the testing results alone without any further comment as to the results' effect on her conclusions. Cl. PR at 8. Claimant asserts Dr. Ogden confirmed this in her deposition, where she agreed she did not reference either test in the summary or analysis sections of her report and acknowledged she likely would have mentioned them if Claimant had done poorly. *Id.* at 8-9 (citing EX 2 at 15 (Tr. 53)).

Claimant's argument is unpersuasive. While it is true Dr. Ogden's report only identified the tests and documented Claimant's results, she testified at length about the testing and the impact of the results on her ultimate conclusion. She explained the tests she relied upon were symptom validity tests meant to "rule out gross exaggeration of psychological and cognitive symptoms" but did not reveal much else. EX 2 at 7 (Tr. 23). Rather, she indicated the test results are just one "piece of information...within the entire context of available information" in determining whether a patient suffers from a psychological condition. *Id.* at 13-14 (Tr. 48-49). Regardless, she testified that in Claimant's case, even without any evidence of malingering, his reported symptoms, both to her and in his medical records, failed to fulfill the diagnostic criteria for PTSD or any other psychological condition. *Id.* at 7 (Tr. 22-23). And the ALJ, acting well within his discretion, explicitly found "Dr. Ogden took great care to explain the relevance of the testing she administered and why Claimant's results, which did not indicate feigning or malingering, did not alter her conclusion that Claimant does not have a work-related psychological injury." D&O at 9.

Contrary to Claimant's argument, the ALJ did not misrepresent Dr. Ogden's treatment of the testing results or irrationally rely on testing results alone to find Claimant failed to prove a work-related injury. Rather, substantial evidence supports his reasonable finding with respect to the psychological testing. *Rainey*, 517 F.3d at 634; *Compton v. Avondale Indus., Inc.*, 33 BRBS 174, 177 (1999).

Claimant next argues the ALJ erred in relying on Dr. Ogden's medical opinion because the doctor based her opinion on a mistaken understanding of the onset of Claimant's symptoms. Cl. PR at 7, 10-12. According to Dr. Ogden, Claimant told her he "became 'sick' in 2012," and she opined the two-year gap between his traumatic exposure and the "out of the blue" appearance of his symptoms was inconsistent with a PTSD diagnosis. EX 1 at 8; *see also* EX 2 at 6-7, 18 (Tr. 20-21, 66). Claimant argues on appeal, however, that he testified he began experiencing psychological symptoms while he was still in Iraq, and Dr. Ogden acknowledged that if she had known Claimant experienced persistent fear during his time in Iraq, she would have changed her opinion as to the timeline of Claimant's symptomatology. Cl. PR at 10-12 (citing HT at 24; EX 2 at 17 (Tr. 62); EX 6 at 17-18 (Tr. 68-69)).

But it was not just the two-year gap between Claimant's exposure and symptoms that Dr. Ogden found inconsistent with PTSD or any psychological condition. She also found it inconsistent that upon his return to Uganda, he was able to return to a "normal life[.]" EX 1 at 8, failing to demonstrate any functional impairment as a result of his alleged symptoms. *Id.*; EX 2 at 7-8, 21 (Tr. 25-26, 78). Dr. Ogden defined "functional impairment" as the inability to maintain relationships, inability to obtain and maintain employment, and alienating other people. EX 2 at 8 (Tr. 25-26). And Dr. Ogden noted

Claimant was able to maintain a healthy relationship with his wife (with whom he had a second child born in 2012), attend and do well at college (including participating in theater, dance, and music outside of school), help his wife with farming,⁶ visit with friends and neighbors, and attend weekly church services. EX 1 at 8, 4; EX 2 at 6, 8 (Tr. 20, 26-27); EX 6 at 14-16, 19 (Tr. 54-64, 74). Dr. Ogden determined Claimant failed to demonstrate “clinically significant distress or impairment in social, occupational, or other important areas of functioning,” a “necessary element” for a psychological diagnosis in accordance with the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5).⁷ EX 2 at 17-18 (Tr. 62-65).

In addition to the onset of Claimant’s symptoms and the lack of any functional impairment, Dr. Ogden found Claimant’s reported symptoms, both to her and PCO Wilson, failed to meet the diagnostic criteria of the DSM-5. EX 1 at 8; EX 2 at 5-7 (Tr. 16, 19, 21-23). Specifically, Dr. Ogden did not find Claimant had symptoms consistent with Criteria C, D, or E of the DSM-5: avoidance behaviors, persistent negative alterations in mood, and marked alterations in arousal and reactivity. EX 1 at 8; EX 2 at 5 (Tr. 15). She explained it was not that his reported symptoms were not sufficiently debilitating to justify a PTSD diagnosis, but that he did not have sufficient symptoms, either in the past or present. EX 2 at 17 (Tr. 62-63).

⁶ Dr. Ogden opined Claimant’s inability to obtain work seemed to stem from the lack of opportunities within his small and remote village rather than any psychological impairment. EX 2 at 8 (Tr. 26).

⁷ We reject Claimant’s argument that the ALJ erroneously adopted Dr. Ogden’s allegedly misleading characterization of the requisite degree of impairment needed to diagnose PTSD. Cl. PR at 12. Specifically, Claimant alleges that in describing PTSD as “debilitating” and failing to accurately quote the DSM-5’s impairment requirement in her report (by omitting the word “clinically” from her description of Criterion G), Dr. Ogden inaccurately raised the threshold for what behavior is required to justify psychological diagnoses, and the ALJ blindly accepted it. *Id.* at 13-14; *see* EX 1 at 8. However, in her deposition, Dr. Ogden did include the word “clinically” in her explanation of the DSM-5’s impairment Criterion G (*see* EX 2 at 17 (Tr. 62-63)), and Claimant failed to offer evidence contradicting Dr. Ogden’s explanation. Claimant’s reference to a medical study, both in his post-trial brief and in his Petition for Review, cannot be considered as it was never formally entered into the record. 5 U.S.C. §556(e); 33 U.S.C. §921(b)(3); 20 C.F.R. §§702.338, 802.301(a) & (b); *Lynch v. Newport News Shipbuilding & Dry Dock Co.*, 39 BRBS 29, 33 (2005); *Ross v. Sun Shipbuilding & Dry Dock Co.*, 16 BRBS 224, 225 (1984).

Thus, even considering Dr. Ogden's concession regarding the onset of Claimant's symptoms, the ALJ reasonably and permissibly relied on her explanation that the lack of functional impairment or sufficient symptomatology supported her conclusion that Claimant did not suffer a work-related psychological injury. *Gasparic*, 7 F.3d at 323. Further, as the ALJ's determination to credit Dr. Ogden's testimony is not "inherently incredible or patently unreasonable," we affirm the ALJ's credibility determination. *Cordero*, 580 F.2d at 1335; *Kkunsu*, 59 BRBS at 4-5; *Powell v. Serv. Employees Int'l, Inc.*, 53 BRBS 13, 16 (2019).

Finally, we note Claimant does not challenge the ALJ's findings and weighing regarding PCO Wilson's reports and opinion. *Scalio*, 41 BRBS at 58. Absent any reliable evidence supporting his claim of a work-related injury, Claimant has not satisfied his burden of proof, despite any errors he alleges regarding Dr. Odgen's opinion. *Rainey*, 517 F.3d at 634; *Santoro*, 30 BRBS at 175.

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

SO ORDERED.

DANIEL T. GRESH, Chief
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge

MELISSA LIN JONES
Administrative Appeals Judge