



BRB No. 24-0363

FAUSTINO CANO CANTARO
Claimant-Petitioner

v.

CONSTELLIS GROUP/TRIPLE CANOPY,
INCORPORATED

and

CONTINENTAL INSURANCE COMPANY
Employer/Carrier-
Respondents

NOT-PUBLISHED

DATE ISSUED: 07/24/2026

DECISION and ORDER

Appeal of the Decision and Order Denying Benefits of Jerry R. DeMaio,
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.

Edwin B. Barnes (Thomas Quinn, LLP), San Francisco, California, for
Employer and its Carrier.

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

PER CURIAM:

Claimant appeals Administrative Law Judge (ALJ) Jerry R. DeMaio's Decision and Order Denying Benefits (2021-LDA-05446) 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 Associates, Inc.*, 380 U.S. 359 (1965).

Claimant allegedly sustained psychological injuries while working for Employer as a security guard in Iraq from October 2005 through November 2006.² Claimant's Exhibit (CX) 27 at 6-8, 18.³ He testified to frequent mortar explosions, a December 2005 shooting incident that happened across the river at night, and an explosion that occurred about 200 meters away from him. *Id.* at 9-11, 22. He also testified to being in constant fear for his life, as his job duties required him to check personnel and vehicles for explosive devices. *Id.* at 7-8, 19. Employer countered that Claimant's reporting of traumatic incidents "is peculiar at best," and that even in recounting the one consistent event he reported, the gun fight across the river, he often described different causes and different scales of combat. Emp. Post Hearing Br. at 17-18.

The ALJ found Claimant invoked the Section 20(a) presumption of compensability, 33 U.S.C. §920(a), and Employer rebutted it with neuropsychiatrist Dr. Philip Rambo's expert opinion that Claimant did not suffer from any psychological condition. Decision and Order Denying Benefits (D&O) at 16-17; *see* Employer's Exhibit (EX) 1. Weighing the evidence, the ALJ found Claimant failed to establish a work-related psychological

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 handled this claim is located in New York. 33 U.S.C. §921(c); *Glob. Linguist Sols., L.L.C. v. Abdelmeged*, 913 F.3d 921, 922 (9th Cir. 2019); *Hice v. Director, OWCP*, 156 F.3d 214, 218 (D.C. Cir. 1998) ("The location of . . . the district director[] who handled [the] claim determines the proper court to hear [the] appeal."); Referral Letter (Aug. 16, 2024).

² Claimant also filed a claim for work-related hearing loss as a result of the same employment. Claimant's Exhibit (CX) 1 at 2. The ALJ found Claimant invoked the Section 20(a) presumption, 33 U.S.C. §920(a), as to his hearing loss claim, and Employer rebutted it. Decision and Order Denying Benefits (D&O) at 16-17. Upon weighing the evidence, the ALJ concluded Claimant failed to prove he suffered an employment-related hearing loss injury. *Id.* at 21-22. As Claimant does not challenge these findings on appeal, we affirm the ALJ's denial of benefits for the alleged hearing loss injury. *See Scalio v. Ceres Marine Terminals, Inc.*, 41 BRBS 57, 58 (2007).

³ Each page of this exhibit contains four pages of Claimant's deposition transcript. All references to this exhibit refer to the exhibit's page number, not the transcript's page number. CX 27.

injury and denied benefits. *Id.* at 22. Claimant appeals, arguing the ALJ erred in finding Dr. Rambo's report sufficient to rebut the Section 20(a) presumption and improperly weighed the evidence. Employer responds, urging affirmance.⁴

Rebuttal

When a claimant invokes the Section 20(a) presumption by producing some evidence of a harm and working conditions that could have caused, aggravated, or

⁴ On October 25, 2024, Employer submitted its response brief to the Benefits Review Board with a motion to accept it out of time, maintaining service was not made on the proper attorney. Employer explained that on June 25, 2024, less than thirty days after issuance of the ALJ's Decision and Order Denying Benefits, Employer's counsel submitted to the Office of Administrative Law Judges (OALJ) a Request for Special Notice of Service/Notice of Representation, alerting the ALJ and Claimant's counsel that although the firm representing Employer remained the same, service should be made upon a different attorney within that firm. Nevertheless, only the former attorney was served with Claimant's Notice of Appeal on June 28, 2024, and the Board's acknowledgement letter on July 10, 2024. Claimant submitted his Petition for Review on August 9, 2024, with electronic service to the former attorney, making the deadline for Employer's response September 9, 2024; consequently, Employer's response was seventy-seven days late. 20 C.F.R. §802.212(a). Employer acknowledges service was effectuated through electronic service on the former attorney, 20 C.F.R. §802.223, but requests "relief from strict application" of the regulation in view of the ignored Special Notice of Service. Claimant opposes Employer's motion, arguing the "intentional failure to determine deadlines, the choice to ignore service from EFS, and the choice to ignore e-mails containing served documents" cannot constitute good cause or excusable neglect.

The Board has discretion to extend the deadline for Employer's response brief for a reasonable amount of time if it finds such extension warranted. 20 C.F.R. §802.217(a). If a party does not preemptively request an extension, as is the case here, the late filing must be accompanied by a separate motion stating the reasons therefor and requesting that it be accepted out of time. 20 C.F.R. §802.217(e). Employer complied with this regulation, and we do not find Claimant suffered any prejudice by virtue of the late filing. We therefore grant Employer's motion and accept its response brief. 20 C.F.R. §§802.212, 802.217(e), 802.219.

accelerated the harm, as here, his injury is presumed to be work-related.⁵ *Rose v. Vectrus Sys. Corp.*, 56 BRBS 27, 37 (2022) (en banc), *appeal dismissed* (M.D. Fla. Aug. 24, 2023); *see, e.g., Am. Stevedoring Ltd. v. Marinelli*, 248 F.3d 54, 64-65 (2d Cir. 2001). Once the presumption has been invoked, the burden shifts to the employer to rebut it by producing “substantial evidence” showing workplace conditions did not cause, contribute to, or aggravate the claimant’s condition. *Rainey v. Dir., OWCP*, 517 F.3d 632, 637 (2d Cir. 2008); *O’Kelley v. Dep’t of the Army/NAF*, 34 BRBS 39, 41 (2000). A physician’s unequivocal opinion that a 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, 7 (2013); *O’Kelley*, 34 BRBS at 41.

In the instant case, Employer relies upon Dr. Rambo’s medical opinion to rebut the presumption that Claimant’s alleged psychological injury is work-related. EX 1. Dr. Rambo evaluated Claimant on August 25, 2022, in-person with the assistance of an interpreter. *Id.* at 1. After interviewing Claimant,⁶ administering several psychiatric testing measures,⁷ and reviewing Claimant’s medical records, Dr. Rambo opined Claimant does not suffer from an employment-related psychological injury or disability. *Id.* at 8-9. He based his conclusion, in part, on Claimant’s providers’ failure to administer validity tests, which he opined are necessary for an accurate diagnosis, and their exclusive reliance on his self-reported symptoms. *Id.* at 8. He also found Claimant’s

⁵ We affirm as unchallenged on appeal the ALJ’s finding that Claimant invoked the Section 20(a) presumption, 33 U.S.C. §920(a), as to his alleged psychological injury. *Scalio*, 41 BRBS at 58.

⁶ Dr. Rambo’s clinical interview included questions about Claimant’s employment-related trauma, the onset, course, and duration of his psychological symptoms, his current symptoms, his daily functioning, his current living arrangements, his educational and employment histories, his medical and psychiatric histories, any substance abuse, and his legal and psychosocial histories. EX 7 at 1-6.

⁷ Dr. Rambo administered the following tests: the Beck Anxiety Inventory (BAI); the Beck Depression Inventory, 2nd edition (BDI-II); the Clinical Administered PTSD Scale-5 (CAPS-5); the Minnesota Multiphasic Personality Inventory – 2 restructured form (MMPI-2-RF); the Neurobehavioral Symptom Inventory (NSI); Performance Validity Tests; Patient Competency Rating Scale (PCRS); the PTSD Checklist for DSM-5 (PCL-5); the Structured Inventory of Malingered Symptomatology (SIMS); and the World Health Organization Disability Assessment Schedule 2.0 (WHODAS 2.0). EX 7 at 6-7.

“presentation...inconsistent and noncredible” based on the results of the testing he administered and “the available records being deficient with respect to establishing the validity of his symptoms.” *Id.* The ALJ found Dr. Rambo’s opinion, which was based on his clinical interview, Claimant’s ability to remain gainfully employed since returning to Peru, the testing results (which demonstrated “multiple indicators” of invalid responses), and the subjective nature of Claimant’s treating providers’ diagnoses, was sufficient to rebut the Section 20(a) presumption. D&O at 17; *see* EX 7 at 9-11.

Claimant argues the ALJ erred in finding Dr. Rambo’s opinion sufficient to rebut the presumption because it is equivocal, internally inconsistent, and lacks clarity. Claimant’s Br. (Cl. Br.) at 5-14. We disagree. Because Dr. Rambo’s opinion directly contradicts the presumption that Claimant has a work-related psychological injury it is not equivocal and is the kind of evidence “a reasonable mind” might accept as adequate to support a conclusion in Employer’s favor. Therefore, the ALJ reasonably found Dr. Rambo’s medical report constitutes substantial evidence legally sufficient to rebut the 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; D&O at 17. Claimant’s assertion that Dr. Rambo’s opinion is inconsistent goes to its weight, which is not an appropriate consideration at the rebuttal stage of the Section 20(a) analysis because Employer’s burden at this stage is one of production, not persuasion. *See Rainey*, 517 F.3d at 637; *Rose*, 56 BRBS at 32; Cl. Br. at 5-14. Consequently, we affirm the ALJ’s finding that Employer rebutted the Section 20(a) presumption regarding Claimant’s alleged psychological injury.⁸

Weighing the Evidence

Because Employer successfully rebutted the Section 20(a) presumption, it no longer applies and the issue of causation must be resolved on the totality of the evidence with the claimant bearing the burden of persuasion by a preponderance of the evidence. *Rainey*, 517 F.3d at 634; *Santoro v. Maher Terminals, Inc.*, 30 BRBS 171, 174 (1996); *see also Dir., OWCP v. Greenwich Collieries [Ondecko]*, 512 U.S. 267, 276 (1994). When weighing the evidence as a whole, the ALJ is entitled to evaluate the credibility of all witnesses, weigh the medical evidence, and draw his own inferences and conclusions from the record. *Pietrunti v. Director, OWCP*, 119 F.3d 1035, 1042 (2d Cir. 1997); *Duhagon v.*

⁸ We reject Claimant’s allegation that the ALJ failed to address whether Dr. Rambo’s evaluation was truly “independent” as indicated in the title of his report. Cl. Br. at 6; *see* EX 1 at 1. Although this characterization may not be accurate, we find it to be harmless error, as there is no confusion, either from the parties’ arguments or the record, that Dr. Rambo’s evaluation and report were generated at Employer’s request. *See generally Suarez*, 50 BRBS at 37.

Metro. Stevedore Co., 31 BRBS 98, 101 (1997). In doing so, he may accept parts of a witness's testimony while rejecting others. *Banks v. Chi. Grain Trimmers Ass'n*, 390 U.S. 459, 467 (1968); *Santoro*, 30 BRBS at 174. The Board may not reweigh the evidence or substitute its opinion for the ALJ's even if the evidence could support other inferences or conclusions. *Carswell*, 999 F.3d at 32; *Sealand Terminals, Inc. v. Gasparic*, 7 F.3d 321, 323 (2d Cir. 1993); *Newport News Shipbuilding & Dry Dock Co. v. Winn*, 326 F.3d 427, 430 (4th Cir. 2003); *Compton v. Avondale Indus., Inc.*, 33 BRBS 174, 176-177 (1999). However, the Board is not bound to accept an ultimate finding or inference if the decision discloses that it was reached in an invalid manner. *Howell v. Einbinder*, 350 F.2d 442, 444 (D.C. Cir. 1965); *Hernandez v. Nat'l Steel & Shipbuilding Co.*, 32 BRBS 109, 113 (1998).

When weighing the evidence, the burden is on Claimant to prove by a preponderance of the evidence that his injury is compensable under the Act. 5 U.S.C. §556(d); *Ondecko*, 512 U.S. at 269; *Carswell*, 999 F.3d at 30-31; *Rainey*, 517 F.3d at 634; *Santoro*, 30 BRBS at 174. In addition to his own testimony,⁹ Claimant proffered his treating providers' medical reports and the expert report of Dr. Benejam. CXs 15, 17, 21, 22, 27. At the outset, we reject Claimant's argument that the ALJ erred by not according "considerable and special" weight to his treating providers' reports. Cl. Br. at 15-17. When there is conflicting medical evidence, as there is here, the ALJ is not required to give special weight to a treating physician's opinion. *Kkunsu v. Constellis Grp./Triple Canopy, Inc.*, 59 BRBS 1, 4 (2025). Instead, as he appropriately did in this instance, the ALJ must consider all relevant evidence, assess the weight and credibility of each opinion, and explain his rationale for reaching a decision based on the evidence in the record. *Id.* at 4-5; *see also Pietrunti*, 119 F.3d at 1042.

In support of his claim, Claimant presented medical evidence from three treating providers: psychologist Dr. Amador Moran Hernandez,¹⁰ psychiatrist Dr. Julian

⁹ We reject Claimant's argument that the ALJ's finding regarding Claimant's credibility is "not entirely clear" and that he erred by failing to expressly credit or discredit his testimony about symptoms and the positive effects of treatment. Cl. Br. at 24-27. The ALJ expressly found Claimant generally credible with respect to his description of traumatic events that occurred while he was employed in Iraq but found his reports regarding "the course and impact of his psychological symptoms...much less consistent." D&O at 18.

¹⁰ Dr. Moran Hernandez conducted an "online" evaluation of Claimant on November 30, 2020; he interviewed Claimant and administered psychological testing (the Visual Retention Test by Arthur L. Benton; the Projective Test of the Human Figure by Karen Machover; the Multiaxial Clinical Inventory – III by Theodore Millon; the Self-Esteem Scale for Adults by Cooper Smith; and the Anxiety and Depression Scales by

Valderrama Escalante,¹¹ and psychiatrist Dr. Omar Alfaro Inca.¹² D&O at 6-9; CXs 15, 17, 21. The ALJ rationally gave Dr. Moran Hernandez's opinion no weight on the issue of causation because of his vague diagnosis¹³ and his failure to explicitly link that diagnosis to Claimant's employment in Iraq. *Carswell*, 999 F.3d at 31-32; *see* D&O at 7-8, 19; CX 17 at 4-5. Likewise, the ALJ rationally gave minimal weight to the reports of Drs. Valderrama Escalante and Alfaro Inca. *Pietrunti*, 119 F.3d at 1042; *Coffey v. Marine Terminals Corp.*, 34 BRBS 85, 87 (2000); D&O at 19-20. The ALJ found neither doctor

Aaron Beck). CX 17 at 2-4. He diagnosed Claimant with "strong emotional conflicts, with personality disorders, and indicators of depression, anxiety, and inadequate impulse control as a result of stressors" and recommended Claimant see a psychiatrist. *Id.* at 5. Dr. Moran Hernandez evaluated Claimant five more times through January 5, 2023, during which time his diagnosis remained the same. *Id.* at 11-12, 16, 19, 22.

¹¹ Dr. Valderrama Escalante first evaluated Claimant on December 1, 2020. CX 21 at 2. That day, he diagnosed Claimant with post-traumatic stress disorder (PTSD) and prescribed medication. *Id.* On January 5, 2021, Dr. Valderrama Escalante completed a questionnaire linking Claimant's PTSD diagnosis to his overseas employment and restricting him from working in a war zone. *Id.* at 11. The record contains reports from seven additional visits with Dr. Valderrama Escalante through September 12, 2021. *Id.* at 9, 16, 21, 26, 31, 36, 41, 46. The reports from each of these visits are one-page summaries indicating "a slow but favorable evolution" and renewed prescriptions. *Id.*

¹² Claimant testified Dr. Valderrama Escalante's visits became too expensive, so he switched providers to Dr. Alfaro Inca. CX 27 at 15. The earliest record from Dr. Alfaro Inca is a prescription dated September 29, 2021; his first documented evaluation of Claimant occurred on October 30, 2021. CX 15 at 2, 5. He diagnosed Claimant with PTSD as a result of his time in Iraq, noted a "slow[] and favorabl[e]" progression, and prescribed the same medications as Dr. Valderrama Escalante. *Id.* at 5. On April 6, 2022, Dr. Alfaro Inca completed the same questionnaire previously completed by Dr. Valderrama Escalante, wherein he diagnosed Claimant with PTSD caused by his time working in Iraq and restricted him from working in a war zone. *Id.* at 32. In all, the record contains seven one-page reports documenting Dr. Alfaro Inca's treatment through August 20, 2022. *Id.* at 10, 15, 20, 25, 30, 37.

¹³ Although Claimant testified Dr. Moran Hernandez had diagnosed him with PTSD, the ALJ found this claim unsupported by the medical evidence. Instead, Dr. Moran Hernandez's diagnosis consistently remained "strong emotional conflicts, with personality disorders, and indicators of depression, anxiety and inadequate impulse control." D&O at 19; CX 17 at 5, 11, 16, 19, 22; CX 27 at 14.

adequately explained how he reached his PTSD diagnosis, and there was no indication either provider administered psychological testing (despite Claimant's testimony that Dr. Valderrama Escalante did).¹⁴ D&O at 8-9, 19-20; *see* CX 27 at 14. The ALJ also permissibly questioned the validity and reliability of Dr. Alfaro Inca's questionnaire responses, as they were almost identical to Dr. Valderrama Escalante's responses to the same questionnaire.¹⁵ D&O at 20; *see* CX 15 at 32; CX 21 at 11.

The only other medical evidence Claimant offered to support causation was Dr. Benejam's expert report. CX 22. Dr. Benejam evaluated Claimant on December 19, 2022. *Id.* He conducted a clinical interview, reviewed medical and employment records, and administered several tests.¹⁶ *Id.* at 1-7. Although Dr. Benejam concluded Claimant had developed symptoms consistent with PTSD as a result of his employment in Iraq, he found they were not sufficiently clinically elevated to warrant a PTSD diagnosis and instead

¹⁴ Claimant argues that the ALJ's discrediting of his treating providers for failing to "elaborate upon [Claimant]'s prior experiences, social, occupational, and medical histories" places an undue burden on them because it would "take away from their impartial and unbiased position as a healer, rather than a medico-legal evaluators [sic]." Cl. Br. at 17-18. We find this argument unpersuasive. The documentation of details surrounding a patient's alleged injury is a common and accepted practice with treating physicians of other specialties and is used to diagnose the condition and commence a treatment plan; treating psychologists and psychiatrists should be no different. We are by no means suggesting that treating providers are required to obtain comprehensive histories from patients or administer testing with the goal of being accorded any particular weight; rather, it is one factor an ALJ may permissibly consider when weighing medical evidence, regardless of the injury alleged. *Pietrunti*, 119 F.3d at 1042; *Kkunsu*, 59 BRBS at 4-5; *Duhagon*, 31 BRBS at 101.

¹⁵ For instance, in response to the question of whether Claimant had reached maximum recovery, Dr. Valderrama Escalante responded: "No, the patient has not reached a maximum point of improvement. In general, post-traumatic stress disorder is a chronic medical condition with a torpid course." CX 21 at 11. In response to the same question, Dr. Alfaro Inca responded: "No, the patient has not reached a point of maximum improvement; in general, post-traumatic stress disorder is a chronic medical condition with torpid evolution." CX 15 at 32.

¹⁶ Dr. Benejam administered the following tests: the Folstein Mini-Mental State Exam (MMSE); the BDI-II; the BAI; the Paranoia Worries Questionnaire (PWQ); the PCL-5; the CAPS-5; the WHODAS 2.0; the SIMS; and the Miller Forensic Assessment of Symptoms Test (M-FAST).

diagnosed Claimant with “Other Specified Trauma and Stressor-Related Disorder.” *Id.* at 6, 8-9, 19.

The ALJ rationally found Dr. Benejam’s report entitled to only “some weight” because he found several inconsistencies within the report. D&O at 21; *Coffey*, 34 BRBS at 87; *Duhagon*, 31 BRBS at 101. For instance, the ALJ noted that, according to Dr. Benejam’s interpretation, Dr. Benejam’s testing results did not demonstrate clinically elevated scores for depression, anxiety, or PTSD, yet Dr. Benejam described Claimant’s current level of depression and anxiety as “significant” and “severe,” without explaining the discrepancy. D&O at 12, 21; *see* CX 22 at 7-8, 18-19. Further, although Dr. Benejam concluded Claimant failed to meet the criteria for a PTSD diagnosis, the ALJ found Dr. Benejam confusingly spent much of his report citing to and summarizing articles discussing latent onset or delayed expression PTSD. D&O at 21; *see* CX 22 at 8-9, 15-17, 19. Moreover, despite acknowledging Claimant had returned to consistent and full-duty work upon his return to Peru, Dr. Benejam concluded Claimant was unable to properly function in an occupational setting. D&O at 21; CX 22 at 20-21. Having given Dr. Rambo’s opinion significant weight, the ALJ found Dr. Rambo’s opinion outweighed Dr. Benejam’s. D&O at 21-22; *Coffey*, 34 BRBS at 87; *Duhagon*, 31 BRBS at 101. He concluded Claimant failed to prove a work-related psychological injury by a preponderance of the evidence and denied the claim. D&O at 21-22.

Claimant argues the ALJ erred by giving Dr. Rambo’s opinion too much weight. Cl. Br. at 18-22. Claimant bases his argument on perceived problems with Dr. Rambo’s report: he selectively over-relied on validity test results, he failed to consider Claimant’s credible reporting and post-Iraq employment issues, he failed to accord any importance to the traumatic events Claimant suffered and the fact that some coworkers resigned after what Claimant described as his most stressful experience, he did not adequately explain his conclusions (especially regarding testing), he failed to address Claimant’s headache complaint (which could arguably have impacted testing), and he failed to adequately address the possibility that Claimant’s condition has improved with treatment. Cl. Br. at 5-7, 11-14, 20-22, 28. Claimant also contends the ALJ failed to properly consider Dr. Benejam’s concerns about Dr. Rambo’s report. Cl. Br. at 28; *see* CX 22 at 10-14.

We disagree. The ALJ found Employer’s expert Dr. Rambo’s report well-documented and well-reasoned and therefore entitled to significant weight. D&O at 20. He noted Dr. Rambo’s testing results had “multiple indicators of invalidity.” *Id.*; *see* EX 1 at 9. Specifically, despite obtaining “normal” scores on “two standalone tests of performance validity,” Claimant’s scores on one performance validity measure were so low as to “indicate [he] was either not putting forth adequate effort or may have been intentionally trying to appear impaired.” EX 1 at 6; *see* D&O at 10. On the SIMS, which Dr. Rambo explained is a “self-report measure of symptom over-endorsement,” Claimant

“significantly exceeded recommended cut scores overall.” EX 1 at 6; *see* D&O at 20. Dr. Rambo also determined Claimant’s scores on the MMPI-2-RF demonstrated “excessive variable response inconsistency” because one portion of the test was “indicative of excessive fixed, content-inconsistent ‘True’ responding, such as is indicative of a highly-acquiescent response strategy.” EX 1 at 6-7; *see* D&O at 20.

Dr. Rambo concluded Claimant’s inconsistent responses were “to the extent that the measure is considered invalid for purposes of clinical interpretation.” EX 1 at 7. Although Claimant’s results on the CAPS-5 test, which Dr. Rambo called the “‘gold standard’ method for evaluating and diagnosing PTSD,” met the criteria for PTSD, Dr. Rambo explained the “pattern of over-reporting or exaggeration of symptoms in several domains” called any such diagnosis into question. EX 1 at 7-8; *see* D&O at 20. Dr. Rambo further found it significant that Claimant had been fully employed since returning to Peru, and that he described his primary point of stress as his daughter living with her mother several miles away. EX 1 at 3, 9-11; *see* D&O at 20. Ultimately, Dr. Rambo concluded there was insufficient “subjective or objective information or evidence to support a psychological diagnosis with a reasonable degree of medical certainty.” EX 1 at 8. The ALJ’s weighing of Dr. Rambo’s opinion was reasonable, and he acted within his discretion to find it persuasive. *Gasparic*, 7 F.3d at 323.

Claimant also argues the ALJ’s weighing of Dr. Benejam’s expert report is based on several mistakes of fact and on the ALJ’s failing to discuss Dr. Benejam’s conclusions in as much detail as he did Dr. Rambo’s, especially with respect to testing results. Cl. Br. at 22-23. We disagree. According to Claimant, his results on the Dr. Benejam-administered BDI, BAI, WHODAS, and PCL-5 tests “clearly indicated that [Claimant] suffers from anxiety and depression, and is disabled in various domains of life,” but “the ALJ confusingly opined that ‘[Claimant]’s results on the remaining assessments did not result in any clinically elevated scores for depression, anxiety, or PTSD.’” Cl. Br. at 22-23; *see* D&O at 21. There is no mistake here as the ALJ’s statements are correct. D&O at 21. Claimant’s results on the Dr. Benejam-administered BDI and BAI demonstrated minimal depression and anxiety, his results on the PCL-5 did not demonstrate PTSD, and the WHODAS measures levels of functioning, not depression, anxiety, or PTSD; these results inexplicably conflict with Dr. Benejam’s conclusions of “significant” anxiety and depression. CX 22 at 8. Moreover, Dr. Benejam’s conclusion that Claimant was “unable to properly adapt and to function” in the occupational space is inconsistent with his own acknowledgement that Claimant had been working since his return to Peru. D&O at 21; *see* CX 22 at 4-5, 19. The ALJ rationally considered both.¹⁷

¹⁷ We also reject Claimant’s argument that the ALJ failed to weigh additional evidence submitted in support of his injury, such as photos, employment certificates and letters, employment contracts, discovery responses, and filings with the Department of

In sum, the ALJ permissibly found Dr. Rambo's well-documented and well-reasoned opinion outweighed Dr. Benejam's opinion, and this finding is supported by substantial evidence.¹⁸ We consider Claimant's arguments a request to reweigh the evidence, which the Board is not permitted to do. *Carswell*, 999 F.3d at 32; *Gasparic*, 7 F.3d at 323; *Miffleton v. Briggs Ice Cream Co.*, 12 BRBS 445, 450 (1980); *see also Ondecho*, 512 U.S. at 269. Rather, recognizing both the ALJ's discretion in weighing the evidence and making credibility determinations, and the rational support he gave for his conclusions, we affirm his finding that Claimant did not establish he suffered an employment-related psychological injury by a preponderance of the evidence. *Pietrunti*, 119 F.3d at 1042;

Labor. While portions of this evidence support Claimant's employment-related exposure establishing a harm at the invocation stage of the Section 20(a) analysis, Claimant has not explained the relevance of those documents to the ALJ's weighing analysis or why the ALJ's consideration of them could have led to a different outcome regarding whether he has a psychological injury as a result of those exposures. Cl. Br. at 28-29; *Shinseki v. Sanders*, 556 U.S. 396, 409 (2009); *Montoya v. Navy Exch. Serv. Command*, 49 BRBS 51, 52 n.1 (2015); *Plappert v. Marine Corps Exch.*, 31 BRBS 109, 111 (1997).

¹⁸ Claimant contends the ALJ erred by not construing and applying the Act in his favor. Cl. Br. at 23-24 (citing *Rose*, 56 BRBS 27). However, in *Rose*, we explained that Section 20(a)'s burden-shifting scheme is designed to do just that – it “preserves the humanitarian purpose of the Act.” *Rose*, 56 BRBS at 36; *see also Wheatley v. Adler*, 407 F.2d 307, 314 (D.C. Cir. 1968). To impose an additional duty to construe Section 20(a)'s causation analysis in a claimant's favor would be, in essence, to impose the “true doubt” rule, which has been rejected by the Supreme Court of the United States as a violation of the Administrative Procedure Act, 5 U.S.C. §556(d). *Ondecho*, 512 U.S. at 269. We also reject Claimant's contention that his credible testimony about his traumatic experiences – alone – should be sufficient to warrant an award under the Act. Cl. Br. at 29-31. While a claimant's testimony, on its own, may be sufficient to invoke the Section 20(a) presumption, it is not sufficient to establish causation once the prima facie case has been successfully rebutted. *Cline v. Huntington Ingalls, Inc.*, 48 BRBS 5, 6 (2013); *Harrison v. Todd Pac. Shipyards.*, 21 BRBS 339, 342 (1988).

Gasparic, 7 F.3d at 323; *Sylejmani*, 57 BRBS at 31; *Suarez*, 50 BRBS at 37; *Coffey*, 34 BRBS at 87.

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
Administrative Appeals Judge