

U.S. Department of Labor

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



BRB No. 24-0370

JOSELINE KABAGWERI

Claimant-Petitioner

v.

TRIPLE CANOPY

and

CONTINENTAL INSURANCE COMPANY

Employer/Carrier-
Respondents

NOT-PUBLISHED

DATE ISSUED: 07/22/2026

DECISION and ORDER

Appeal of the Decision and Order Denying Benefits of Monica Markley,
Administrative Law Judge, United States Department of Labor.

Joseline Kabagweri, Rwampara District, Uganda.

Lauren E. Wilson and Travis N. Gregory (Markovich Grover PLLC),
Houston, Texas, for Employer and its Carrier.

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

PER CURIAM:

Claimant, without representation, appeals Administrative Law Judge (ALJ) Monica Markley's Decision and Order Denying Benefits (2021-LDA-01622) 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). In an appeal a claimant files without representation, the Benefits Review Board reviews the ALJ's decision to determine if the findings of fact and conclusions of law are

rational, supported by substantial evidence, and in accordance with applicable law.¹ 33 U.S.C. §921(b)(3); *O’Keeffe v. Smith, Hinchman & Grylls Assocs., Inc.*, 380 U.S. 359, 361-362 (1965).

Claimant allegedly sustained psychological injuries and hearing loss while working for Employer as an armed security guard at Camp Olympia in Iraq from March 24, 2009, until August 15, 2010. Employer’s Exhibit (EX) 5 at 9, 12; Claimant’s Exhibit (CX) 4 at 2, 9. She testified she experienced frequent rocket attacks, mortar attacks, explosions, and gunfire, and that during attacks, loud alarms sounded and she would run to a bunker for safety. EX 5 at 28-31. When asked about specific incidents, she detailed hearing and feeling a large explosion in Baghdad that caused the ground and buildings around her to shake and stated she feared for her life and believed this is when she “lost [her] memory.” *Id.* at 29-30. She did not see anyone who was injured in this incident but heard that people died. *Id.* at 29.

Employer did not dispute Claimant was exposed to the threat of various wartime attacks, but it noted she had difficulty identifying “specific traumatic events” during her psychological evaluations. Emp. Post-Hearing Brief at 22, 27.

Claimant testified she began experiencing psychological symptoms, including nightmares, flashbacks, sleepless nights, hearing issues, memory loss, and headaches while working for Employer in Iraq and she did not report the symptoms to Employer due to her fear of dismissal. EX 5 at 9, 14-15, 18-20. After Claimant’s contract with Employer expired in August 2010, she returned home to Uganda and her symptoms continued, and she began having a short temper, general body weakness, and chest pain. *Id.* at 9-10, 13. Claimant testified she did not attempt to secure other employment because she was “always sick and weak” and believed she could not return to work because of her poor memory. *Id.* at 9-11.

In October 2011, Claimant began treating at Mbarara Regional Referral Hospital with a doctor whose name she could not remember. She received medication for her psychological symptoms, but the treatment note did not include any diagnoses other than reflecting she had been previously “managed” for depression and post-traumatic stress

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. Dir., 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 (Oct. 1, 2024) (OWCP No. LS-02412324).

disorder (PTSD). EXs 5 at 14-15, 8 at 1-4. Claimant continued treating with this doctor until 2016, when she began seeking care for her symptoms at her church. EX 5 at 16-17.

On August 7, 2019, Claimant began regularly treating with Psychiatric Clinical Officer (PCO) Buhese Wilson at Mbarara Regional Referral Hospital, complaining of symptoms such as headache, irritability, isolation, intrusive thoughts, auditory hallucinations, and hypervigilance. CXs 1 at 1, 6 at 12. Based on her symptoms, PCO Wilson diagnosed Claimant with PTSD and psychotic depression. CX 1 at 1-2, 8-9. PCO Wilson noted Claimant reported having suicidal ideations on December 22, 2020, and, in his Medical Questionnaire, PCO Wilson opined Claimant should not have access to weapons or chemicals “due to [a] high risk of suicide.” *Id.* at 9, 13. On March 9, 2021, Claimant was admitted to the Mbarara Regional Referral Hospital for twenty days due to “attempted suicide with social withdrawal.” *Id.* at 11. In his July 15, 2021 letter, PCO Wilson explained Claimant’s exposure to traumatic events while working for Employer “significantly contributed” to her psychological condition and she had scored a “21 on the PHQ-9 and [a] 49 on [the] PCL-5 checklist.” *Id.* at 16.

On August 10, 2020, Claimant visited Licensed Clinical Officer (LCO) Leonard Bosco Opio for her worsening hearing loss symptoms, including painful and ringing ears, buzzing sounds, hearing loss without discharge, and itchiness. CXs 2 at 1, 6 at 1-11; EX 5 at 24-26, 30. On September 7 and 10, 2020, LCO Opio conducted audiograms, which demonstrated moderate sensorineural hearing loss, and he recommended medication, hearing aids, and rehabilitation. CX 2 at 4, 8. He opined her hearing loss “could be due to [a] bomb blast.” *Id.* at 6.

On November 21, 2021, at Employer and its Carrier’s (Employer) request, audiologist Dr. Laurie S. Hebert conducted a peer review of LCO Opio’s two audiograms and his treatment notes. EX 7. She opined Claimant’s hearing loss is atypical of noise exposure because her loss was asymmetric and occurred at lower frequencies. *Id.* at 2. She further stated noise exposure creates a sensorineural hearing loss pattern, but Claimant’s audiograms documented conductive hearing loss in both ears, which is caused by a medical disorder rather than noise exposure. *Id.* She concluded Claimant’s hearing loss was “less likely than not” related to noise exposure during her work for Employer. *Id.*

At Employer’s request, Dr. Rose Dunn, a clinical neuropsychologist, evaluated Claimant on December 20, 2021, and administered various psychological tests.² EX 6.

² Dr. Dunn administered the following tests: Beck Anxiety Inventory (BAI), Beck Depression Inventory, 2nd Edition (BDI-II), Clinician Administered PTSD Scale-5 (CAPS-5), Minnesota Multiphasic Personality Inventory-2 Restructured Form (MMPI-2-RF), Neurobehavioral Symptom Inventory (NSI), PTSD Checklist for DSM-5 (PCL-5),

She opined symptom and performance validity measures indicated “over-reporting” and a “non-credible presentation during the evaluation.” *Id.* at 7-12. Based on Claimant’s reported symptoms and experiences, test results, interview, behavioral presentation, and medical records, Dr. Dunn opined there was “no reliable or valid evidence” that Claimant has a psychological injury related to her work with Employer. *Id.* at 6, 9-14. After reviewing additional records, including PCO Wilson’s testing results, Dr. Dunn wrote an addendum to her report indicating the records “raise[d] further concern for over-reporting of symptoms” during her evaluation. *Id.* at 15-16.

On August 19, 2020, Claimant filed a claim seeking benefits for her alleged work-related psychological condition and an amended claim on September 24, 2020, for her alleged hearing loss. CX 4; EX 1. Employer controverted the claims on January 12, 2021. EX 3. At the parties’ joint request, the ALJ agreed to adjudicate the claim based on the evidence of record in lieu of a hearing. *See* Feb. 2, 2022 Order.

On June 6, 2024, the ALJ issued her Decision and Order (D&O). While she found Claimant successfully invoked the Section 20(a) presumption of compensability as to both her psychological and hearing loss claims, 33 U.S.C. §920(a), she also found Employer presented sufficient evidence to rebut the presumption for both claims. D&O at 30-33. Upon weighing the evidence in its entirety, the ALJ found Claimant failed to prove by a preponderance of the evidence that she suffers from a work-related psychological condition or hearing loss and denied benefits.³ *Id.* at 42, 45-46.

Structured Inventory of Malingered Symptomatology (SIMS), Test of Memory and Malingered (TOMM), and World Health Organization Disability Assessment Schedule 2.0 (WHODAS 2.0). EX 6 at 7-9.

³ Having found no compensable injury, the ALJ did not address the timeliness of the notice of injury, timeliness of the claim, the nature and extent of Claimant’s alleged disability, or her average weekly wage and residual wage-earning capacity. D&O at 3, 46.

On appeal, Claimant generally challenges the denial of benefits.⁴ Employer responds, urging affirmance.⁵

Section 20(a) Rebuttal

When, as in this case, the Section 20(a) presumption is invoked, *Rose v. Vectrus Sys. Corp.*, 56 BRBS 27 (2022) (Decision on Recon. en banc), *appeal dismissed* (M.D. Fla. Aug. 24, 2023); *see also Rainey v. Dir., 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 her 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). The inquiry at rebuttal is whether the employer submitted “such relevant evidence as a reasonable mind might accept as adequate” to support a finding that the claimant’s injury is not work-related. *Rainey*, 517 F.3d at 637. The employer’s burden on rebuttal is one of production, not persuasion. *Id.* A physician’s unequivocal opinion that there is no injury or 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’Kelley v. Dep’t of the Army/NAF*, 34 BRBS 39, 41-42 (2000).

The ALJ found Dr. Dunn’s opinion that Claimant does not have a psychological condition related to her work for Employer sufficient to rebut the Section 20(a) presumption. D&O at 32. Dr. Dunn reported inconsistencies between Claimant’s self-reported symptoms and her responses and behavioral presentation during the interview and testing, and her test results indicated overreporting of symptoms. EX 6 at 7-12. Dr. Dunn

⁴ Claimant indicated she attached new medical evidence that was not considered by the ALJ to her appeal letter. *See* Claimant’s Pro Se Appeal Letter. There was nothing attached to Claimant’s appeal letter, but even if there had been, the Board is not permitted to accept or consider new evidence on appeal. 20 C.F.R. §802.301(b). Should there be new evidence necessary to the adjudication of a claim, a motion for modification may be the appropriate procedure. 33 U.S.C. §922; 20 C.F.R. §802.301(c).

⁵ We affirm, as unchallenged on appeal, the ALJ’s finding that Claimant invoked the Section 20(a) presumption with respect to her alleged work-related psychological condition and hearing loss. *See Scalio v. Ceres Marine Terminals, Inc.*, 41 BRBS 57, 58 (2007); D&O at 30-31.

further noted Claimant had difficulty identifying a “specific traumatic event[,]” which she opined is atypical for someone with PTSD. *Id.* at 10. Based on this evidence, Dr. Dunn concluded “there is no reliable or valid evidence from this evaluation to indicate that [Claimant] has a psychological injury/diagnosis.” *Id.*

The ALJ next found Dr. Hebert’s opinion sufficient to rebut the Section 20(a) presumption with respect to Claimant’s hearing loss. D&O at 33. To a reasonable degree of medical certainty, Dr. Hebert opined Claimant’s hearing loss is “less likely than not related to noise exposure during her employment” with Employer. EX 7 at 2. Dr. Hebert explained that Claimant’s hearing loss is atypical of noise exposure because noise exposure creates “symmetric hearing loss,” and Claimant’s audiograms indicated her hearing loss in her left ear is worse than her right ear. *Id.* 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, including 250 Hz to 1000 Hz, which she explained also is atypical of noise induced hearing loss. *Id.* She further opined that Claimant’s complaints, pattern of hearing loss, and audiogram results were consistent with conductive hearing loss, which is caused by a medical disorder of the outer or middle ear and not noise exposure. *Id.*

The opinions of Drs. Dunn and Hebert directly contradict the Section 20(a) presumption that Claimant has a psychological injury and hearing loss, respectively, and comprise the kinds of evidence “a reasonable mind might accept as adequate” to support those conclusions. *Rainey*, 517 F.3d at 637. Therefore, the ALJ accurately found 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; D&O at 32-33. Consequently, we affirm the ALJ’s determination that Employer rebutted the Section 20(a) presumption for both alleged injuries. D&O at 32-33.

Weighing the Evidence

Because we have affirmed the ALJ’s findings on invocation and rebuttal, the issue of causation must be resolved on the evidence of the whole record with the claimant bearing the burden of persuasion by a preponderance of the evidence. *Dir., OWCP v. Greenwich Collieries [Ondecko]*, 512 U.S. 267, 271 (1994); *Rainey*, 517 F.3d at 634; *Santoro v. Maher Terminals, Inc.*, 30 BRBS 171, 174 (1996). As a factfinder, the ALJ has “the discretion to evaluate the credibility of a claimant and to arrive at an independent judgment, in light of medical findings and other evidence.” *Pietrunti v. Dir., OWCP*, 119 F.3d 1035, 1042 (2d Cir. 1997). The ALJ is also tasked with assessing the weight and credibility of medical opinions and whether those opinions are rationally based on their underlying documentation. *Brown v. Nat’l Steel & Shipbuilding Co.*, 34 BRBS 195, 201 (2001); see also *Calbeck v. Strachan Shipping Co.*, 306 F.2d 693 (5th Cir. 1962), *cert. denied*, 372

U.S. 954 (1963); *John W. McGrath Corp. v. Hughes*, 289 F.2d 403, 405 (2d Cir. 1961). She may 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), and she may draw her own inferences and conclusions from the evidence. *Compton v. Avondale Indus., Inc.*, 33 BRBS 174, 176-177 (1999).

The ALJ must explain her rationale in reaching a decision on the evidence, *Kkunsu 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 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. *Sealand Terminals, Inc. v. Gasparic*, 7 F.3d 321, 323 (2d Cir. 1993); *Volpe v. Ne. Marine Terminals*, 671 F.2d 697, 700 (2d Cir. 1982); 20 C.F.R. §802.301(a).

Psychological Injury

In determining whether Claimant established a work-related psychological injury, the ALJ considered Claimant's testimony and the conflicting medical opinions of PCO Wilson and Dr. Dunn. D&O at 33-42. The ALJ found Claimant is not credible based on discrepancies between her testimony, discovery responses, and statements to medical providers. *Id.* at 33-35. The ALJ then found PCO Wilson's opinion and treatment records are not well-documented or reasoned and entitled to little weight. *Id.* at 36-39. Conversely, she gave great weight to Dr. Dunn's opinion because she found it reasoned and documented. *Id.* at 39-42. Weighing all the evidence, the ALJ concluded Claimant failed to establish a work-related psychological injury. *Id.* at 42.

In considering Claimant's credibility, the ALJ identified multiple unexplained inconsistencies between Claimant's testimony, her reports to medical providers, and her discovery responses regarding her employment history, symptoms, and treatment. D&O at 33-35. For example, Claimant informed PCO Wilson of hearing strange voices, auditory hallucinations, and experiences of torture, sandstorms, carrying heavy weights, and environmental pollution, but she never mentioned these symptoms and experiences during her deposition or to Dr. Dunn. CX 1 at 1, 6-7, 16; *see generally* EXs 5, 6. Further, she never mentioned her suicide attempt or her suicidal ideations during her deposition or to Dr. Dunn. CX 1 at 9, 11, 13; *see generally* EXs 6, 5. Additionally, Claimant initially denied seeing a doctor for her symptoms prior to 2019 but later testified she had begun regularly seeing a doctor beginning in 2011. EX 5 at 14-15. Claimant stated during her deposition and to Dr. Dunn that the working conditions for Employer were harsh in part

due to gunfire but later denied having ever experienced gunfire while working for Employer. EXs 5 at 28, 31, 6 at 2.

Additionally, in her interrogatory responses, Claimant recalled an incident when a rocket landed in a dining facility and killed two people, but she did not testify to this event or mention it to Dr. Dunn; to the contrary, she specifically testified that, other than the “big explosion” in Baghdad that she heard and felt, the rocket and mortar attacks were “intercepted before they exploded.” CX 5 at 7, 9; *see* EXs 5 at 29, 6 at 2. Finally, the ALJ noted Claimant stated in her interrogatory responses that since returning from Iraq, she had been completing side jobs and working at least forty hours per week at the time of her responses, but then testified at her deposition and reported to Dr. Dunn that she had not worked since her employment with Employer because of her symptoms. CX 5 at 11, 27; EXs 5 at 6, 9-11, 6 at 4.

For these reasons, the ALJ found Claimant is not credible, assigned little weight to her testimony, and found her other statements unreliable. D&O at 33-35. Considering the discretion accorded to ALJs in weighing the evidence, *Gasparic*, 7 F.3d at 323, and as she fully explained her reasons for finding Claimant is not credible, we affirm the ALJ’s finding. *Carswell*, 999 F.3d at 27; *see also Ceres Gulf. Inc. v. Dir., OWCP [Plaisance]*, 683 F.3d 225, 228 (5th Cir. 2012); *Pietrunti*, 119 F.3d at 1042; *Universal Camera Corp. v. NLRB*, 340 U.S. 474, 488 (1951) (Facing a choice “between two fairly conflicting views” under substantial evidence review, a reviewing court may not displace a lower court’s conclusion “even though the court would justifiably have made a different choice had the matter been before it *de novo*.”); *Elkins v. Sec’y of HHS*, 658 F.2d 437, 439 (6th Cir. 1981) (“If the [ALJ’s] findings are supported by substantial evidence, we must affirm the [ALJ’s] decision, even though as triers of fact we might have arrived at a different result.”).

Regarding the medical evidence, the ALJ found PCO Wilson’s opinion, “Medical Questionnaire,” and treatment records are neither well-reasoned nor documented because he failed to explain how he reached his diagnoses other than listing and relying heavily on Claimant’s unreliable self-reported symptoms.⁶ D&O at 39, 42. Further, she observed PCO Wilson did not explain what the PHQ-9 and the PCL-5 evaluate and did not explain whether Claimant’s results supported his diagnoses of PTSD and psychotic depression. *Id.* at 39; CX 1 at 16. Additionally, the ALJ determined PCO Wilson failed to adequately explain the progression of Claimant’s condition, including frequent changes to her

⁶ The ALJ determined Claimant’s treatment records from Mbarara Regional Referral Hospital were entitled to little weight because, despite noting prior management of PTSD and depression, they did not include any diagnoses nor address any causes for Claimant’s symptoms. D&O at 36.

medication and his alteration in diagnoses from “psychotic depression” to “depression.” D&O at 38-39; CX 1 at 3-19. The ALJ also noted PCO Wilson failed to document Claimant’s medical and work histories, including only “vague references” to traumatic events, but no specific descriptions of any traumatic incidents witnessed by Claimant while in Iraq. *Id.* at 37-38. Finally, the ALJ found the absence of Claimant’s suicide attempt and hospitalization from PCO Wilson’s records, which were from the same period of time, and only his December 2020 treatment note documenting suicidal ideations raised questions as to the thoroughness and reliability of his records.⁷ D&O at 38; CX 1 at 11, 13. For these reasons, the ALJ found PCO Wilson’s diagnoses “poorly explained and poorly supported” and his opinion was entitled to little weight. D&O at 39.

The ALJ found Dr. Dunn’s opinion that there was no valid or reliable evidence that Claimant had a psychological injury to be reasoned and documented based on her evaluation, objective testing results, review of the record, and detailed accounting of Claimant’s medical, personal, and employment histories. D&O at 39-42; EX 6 at 10. Dr. Dunn explained “converging evidence” from symptom and performance validity measures, including the SIMS, the NSI, and the MMPI-2-RF validity tests, “indicat[ed] non-credible presentation” and overreporting of symptoms.⁸ D&O at 40; EX 6 at 7-10, 12. She also opined despite Claimant’s endorsement of most symptoms at a “markedly elevated level” during the self-report measures, which suggested an “acute emotional crisis,” Claimant’s “behavioral presentation” and her ability to communicate during the evaluation were inconsistent with her reported symptom severity or disability level. D&O at 22-23, n.73, 40; EX 6 at 7-10. Additionally, Dr. Dunn noted Claimant reported atypical symptoms and had difficulty identifying a specific traumatic event, which she opined was inconsistent with PTSD. EX 6 at 10. Finally, in her addendum, Dr. Dunn documented an eleven-point increase in Claimant’s PCL-5 results from PCO Wilson’s test to her test approximately six months later, which she opined suggested Claimant’s symptoms had “significantly worsened” and was inconsistent “with the expected trajectory of trauma related symptoms, particularly for an individual actively engaged in treatment.” *Id.* at 15-16. Dr. Dunn stated

⁷ She also questioned the authenticity of PCO Wilson’s records, noting there were two January 20, 2020 treatment notes with differing symptoms and prescriptions. D&O at 38; CX 1 at 6-7.

⁸ Dr. Dunn explained Claimant’s SIMS score was “well above” the test manual’s cut-off score and the conservative cut-off score. EX 6 at 7. She also determined Claimant’s MMPI-2-RF clinical profile was invalid due to overreporting of cognitive and somatic complaints, an excessive number of infrequent responses, and a “considerably larger than average” number of symptoms. *Id.* at 7-8. She also noted the validity scales within the NSI were invalid and suggestive of overreporting. *Id.* at 7.

this “raise[d] further concern for over-reporting of symptoms” during her evaluation. *Id.* For these reasons, the ALJ found Dr. Dunn’s opinion to be reasoned and documented and entitled to great weight. D&O at 41-42.

Weighing the psychological injury evidence as a whole, the ALJ found Dr. Dunn’s opinion outweighed Claimant’s testimony, the treatment records from Mbarara Regional Referral Hospital, and PCO Wilson’s opinion and records. D&O at 42. Because the ALJ’s weighing of the evidence is rational and supported by substantial evidence, *Pietrunti*, 119 F.3d at 1042; *Gasparic*, 7 F.3d at 323; *Hughes*, 289 F.2d at 405, we affirm the ALJ’s finding that Claimant has not established a work-related psychological injury and her denial of disability and medical benefits. 33 U.S.C. §921(b)(3); *Sistrunk v. Ingalls Shipbuilding, Inc.*, 35 BRBS 171, 174 (2001); *Coffey v. Marine Terminals Corp.*, 34 BRBS 85, 87 (2000); D&O at 42.

Hearing Loss

Upon weighing the hearing loss medical evidence, the ALJ found LCO Opio’s opinion that Claimant’s alleged hearing loss “could be” due to bomb blasts is equivocal because he failed to definitively state whether Claimant’s hearing loss was due to her work for Employer. D&O at 43-44; CX 2 at 6. Further, the ALJ found LCO Opio failed to adequately explain his reasons for administering two audiograms, why the results differed between them, or how the results and Claimant’s symptoms supported a finding of hearing loss due to noise exposure. D&O at 43-44; CX 2 at 4, 8. The ALJ also determined LCO Opio’s apparent reliance on Claimant’s unreliable self-reporting regarding when her symptoms began further undermined his opinion, particularly because she testified her hearing loss worsened between 2016 and 2020, six years after returning from Iraq. D&O at 43-44; CX 2 at 1-2, 5-6; EX 5 at 21. For these reasons, the ALJ assigned LCO Opio’s records little weight. D&O at 42-44.

In contrast, the ALJ credited Dr. Hebert’s opinion that Claimant’s hearing loss was not due to work-related noise exposure. D&O at 44-45; EX 7. The ALJ noted Dr. Hebert opined there were no objective tests to validate Claimant’s voluntary responses during the audiograms and that the audiometer used by LCO Opio during the audiogram lacked a calibration date, even though audiometers require annual calibration, and that LCO Opio did not measure a hearing threshold for 3000 Hz, which is required to compute hearing impairment using the American Medical Association guidelines. D&O at 45; EX 7 at 3. The ALJ also gave probative weight to Dr. Hebert’s opinion that Claimant’s audiograms demonstrated a pattern of conductive hearing loss caused by a medical disorder and did not match the pattern for sensorineural hearing loss caused by exposure to loud noises. D&O at 45; EX 7 at 2. The ALJ further credited Dr. Hebert’s explanation that Claimant’s hearing loss is atypical of noise exposure because her loss was asymmetric and occurred at lower

frequencies. D&O at 45; EX 7 at 2. Consequently, the ALJ found Dr. Hebert's opinion well-reasoned and supported. D&O at 45.

Weighing the hearing loss evidence, the ALJ found Dr. Hebert's well-reasoned opinion outweighed Claimant's testimony and LCO Opio's audiograms and records. D&O at 45-46. As it is rational and supported by substantial evidence, we affirm the ALJ's finding that Claimant failed to establish work-related hearing loss, *see Pietrunti*, 119 F.3d at 1042; *Gasparic*, 7 F.3d at 323; and her denial of disability and medical benefits. 33 U.S.C. §921(b)(3); *Sistrunk*, 35 BRBS at 174; *Coffey*, 34 BRBS at 87; D&O at 45-46.

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