

U.S. Department of Labor

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



BRB No. 24-0387

MARCO MUÑOZ VALENZUELA)

Claimant-Petitioner)

v.)

SOC, LLC)

and)

CONTINENTAL INSURANCE COMPANY)

Employer/Carrier-
Respondents)

NOT-PUBLISHED

DATE ISSUED: 07/17/2026

DECISION and ORDER

Appeal of the Decision and Order of Dana Rosen, Administrative Law Judge,
United States Department of Labor.

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

Sherman W. Jones, III, and Matthew M. Ferman (Brown Sims), Houston, Texas, for Employer and its Carrier.

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

PER CURIAM:

Claimant appeals Administrative Law Judge (ALJ) Dana Rosen's Decision and Order (2021-LDA-04481) rendered on a claim filed pursuant to the Longshore and Harbor Workers' Compensation Act, as amended, 33 U.S.C. §§901-950 (Act), as extended by the

Defense Base Act, 42 U.S.C. §§1651-1655 (DBA). We must affirm the ALJ's findings of fact and conclusions of law if they are rational, supported by substantial evidence, and in accordance with applicable law.¹ 33 U.S.C. §921(b)(3); *O'Keeffe v. Smith, Hinchman & Grylls Assocs., Inc.*, 380 U.S. 359 (1965).

Claimant, a native of Peru, worked for SOC (Employer) as an armed security guard in Iraq from 2009 or 2010 to August 15, 2011.² Employer's Exhibit (EX) 11 at 10; Hearing Transcript (HT) at 5. Claimant testified to experiencing several mortar attacks and witnessing shootings during his employment with Employer, which he later learned resulted in casualties, though he did not directly observe any fatalities.³ EX 11 at 14.

After returning to Peru in 2011, Claimant worked as an independent taxi driver until 2012. EX 11 at 11. He then became a security guard for a mining company from 2012 to 2014, a role he previously held before going to Iraq. *Id.* at 21. Claimant testified the job ended because he was "restless," "impatient," and "could not sleep well." *Id.* at 21. In late 2015 or early 2016, Claimant began working as a grocery store assistant⁴ and as a masonry

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 (March 18, 2021).

² Claimant previously worked in Iraq as a guard for Triple Canopy from March 2006 to 2008 or 2009, where he worked at the Black Hawk Camp in the palace. EX 11 at 7, 10. During his time with Triple Canopy, Claimant reported having experienced deadly mortar and rocket attacks and witnessing the deaths of other foreign nationals. *Id.* at 9.

³ During Claimant's deposition, he described a day when mortar shells landed 50-100 meters away from him and a shooting occurred between Americans and the Taliban, which resulted in his seeking shelter in a bunker for ten minutes. EX 11 at 9-12. Claimant also recalled shootings at the American Embassy between Americans and the Taliban, a mortar shell that fell between two tower columns causing damage that he later learned killed two people, and another mortar attack he later learned killed two laundry women. *Id.* 12-14. He could not recall any additional incidents or remember the most recent or traumatic events experienced while working for Employer. *Id.*

⁴ Claimant works at his brother's grocery store two to three days a week for four to five hours each shift, operating the cash register and helping customers with their bags. EX 11 at 22. He stated he feels comfortable interacting with customers in the store. *Id.*

assistant. *Id.* at 21-22. In 2011, Claimant also took a cooking course and received a certificate that qualifies him to work as a chef in Peru. *Id.* at 4.

On January 14, 2021, Claimant met with psychiatrist Dr. Julian Valderrama Escalante⁵ and reported irritability, impulsivity, sadness, flashbacks, nightmares, detachment, emotional numbness, anhedonia, avoidance, environmental unresponsiveness, distractibility, and short-term memory issues. Claimant's Exhibit (CX) 28 at 2. Dr. Valderrama Escalante diagnosed Claimant with Post-Traumatic Stress Disorder (PTSD). *Id.* He prescribed Claimant medication and recommended psychotherapy every two weeks. *Id.* During Claimant's second appointment on February 16, 2021, Dr. Valderrama Escalante completed a questionnaire and stated that Claimant's medical condition was caused by his working conditions while employed by Employer and he needed psychiatric and psychological treatment to be able to return to work. *Id.* at 8. Dr. Valderrama Escalante continued to treat Claimant from 2021 to 2022.⁶ CX 28.

On June 6, 2022, at Employer's request, Dr. Robert Collins, a clinical neuropsychologist, evaluated Claimant virtually with the assistance of an interpreter, reviewed his treatment records dated January 14, 2021, through July 24, 2021, and administered several tests, including the Combat Exposure Scale.⁷ EX 5 at 1, 4-5. Claimant reported several traumatic events on that test, including a mortar attack that occurred after a sporting celebration, which required him to take shelter in a bunker for most of the day. *Id.* at 4. He indicated there were numerous casualties among U.S. soldiers and contractors while he worked at the American Embassy—although he did not witness these directly, he did report seeing casualties as he ran toward the bunkers. *Id.* at 4.

⁵ A colleague with whom Claimant connected on Facebook recommended Dr. Valderrama Escalante after learning about Claimant's symptom complaints. EX 11 at 17-18.

⁶ Dr. Valderrama Escalante also treated Claimant on March 23, 2021, June 25, 2021, July 24, 2021, December 6, 2021, February 7, 2022, July 7, 2022, and October 6, 2022. CX 28 at 15-53.

⁷ Dr. Collins administered the following assessments: the Beck Anxiety Inventory (BAI), the Beck Depression Inventory, 2nd edition (BDI-II), the PTSD Checklist for DSM-5 (PCL-5), the Structured Inventory of Malingered Symptomatology (SIMS), IADL/ADL questionnaire (PCRS), Neurobehavioral Symptom Inventory (NSI), the Clinician Administered PTSD Scale (CAPS-5), the World Health Organization Disability Assessment Schedule 2.0 (WHODAS 2.0), and the Minnesota Multiphasic Personality Inventory (MMPI-2-RF). EX 5 at 5.

Claimant's reported symptoms included headaches, confusion, forgetfulness, and sleep difficulties. *Id.* at 2. When asked how these symptoms affected his ability to work, he said he is "okay" and "usually normal" but occasionally experiences headaches leading to disorientation and forgetfulness. *Id.* at 3. Dr. Collins concluded Claimant has no work-related health impairment or PTSD. *Id.* at 11.

On August 30, 2022, and September 2, 2022, psychologist Dr. Johanna Guerrero evaluated Claimant via video conference at Claimant's counsel's request. CX 24 at 12. Dr. Guerrero reviewed Claimant's treatment records from Dr. Valderrama Escalante, as well as Dr. Collins's report, and administered the Test of Memory Malingered (TOMM) and the Posttraumatic Stress Disorder Checklist for DSM-5 (PCL-5). *Id.* at 12, 19-20. Dr. Guerrero diagnosed Claimant with PTSD and Major Depressive Disorder, Recurrent Severe, with anxious distress. *Id.* at 21. She reported that Claimant's TOMM results showed no signs of feigning, while his PCL-5 score indicated "significant trauma symptoms." *Id.* at 19-20.

On March 2, 2023, Dr. Collins issued an addendum following his review of Claimant's discovery responses, deposition transcript, Dr. Guerrero's report and Curriculum Vitae, and Claimant's treatment records from Dr. Valderrama Escalante dated December 6, 2021, through October 6, 2022. EX 6 at 1. Dr. Collins's conclusion after reviewing this evidence did not change. EX 6 at 6.

On March 17, 2021, Claimant filed a claim seeking benefits for work-related psychological injuries. CX 1. The case was forwarded to the Office of Administrative Law Judges (OALJ), where the parties opted for a modified hearing held on August 15, 2023, where the parties were represented by counsel and afforded an opportunity to present evidence and make arguments, but no live witness testimony was taken. HT at 2.

On June 21, 2024, the ALJ issued a Decision and Order (D&O). The ALJ determined Claimant invoked the Section 20(a) presumption, 33 U.S.C. §920(a), for his alleged psychological injury, and Employer rebutted it. D&O at 25-27. Weighing the evidence as a whole, the ALJ found Claimant did not establish he suffered a work-related psychological injury by a preponderance of the evidence and denied his claim. *Id.* at 27-40.

Claimant appeals, challenging the ALJ's causation findings as to his psychological injuries. Employer responds, urging affirmance. Claimant filed a reply brief, reiterating his arguments.

Rebuttal

Claimant first asserts the ALJ improperly found Employer rebutted the Section 20(a) presumption. Claimant's Petition for Review and Brief (Cl. PR) at 5. He argues the ALJ erred in finding Dr. Collins's report constituted substantial evidence sufficient to rebut the Section 20(a) presumption because he asserts Dr. Collins's opinion was equivocal and filled with inconsistencies and several mistakes. *Id.* at 5-14.

To invoke the Section 20(a) presumption, a claimant must first establish (1) he sustained a harm and (2) an accident occurred or working conditions existed which could have caused or aggravated the harm. *Rose v. Vectrus Sys. Corp.*, 56 BRBS 27, 36 (2022) (Decision on Recon. en banc), *appeal dismissed* (MDFL Aug. 24, 2023); *see also Am. Stevedoring Ltd. v. Marinelli*, 248 F.3d 54, 64-65 (2d Cir. 2001). Once the presumption is invoked, as in this case, the burden shifts to the employer to rebut the presumption by producing substantial evidence that the claimant's injuries were not caused by, contributed to, or aggravated by his employment. *Rainey v. Director, OWCP*, 517 F.3d 632, 637 (2d Cir. 2008); *O'Kelley v. Dep't of the Army/NAF*, 34 BRBS 39, 41 (2000).

The employer's burden at this stage is one of production, not persuasion. *Rainey*, 517 F.3d at 637; *Rose*, 56 BRBS at 35; *Suarez v. Serv. Emps. Int'l, Inc.*, 50 BRBS 33, 36 (2016). The inquiry at rebuttal concerns whether the employer submitted evidence that, if considered true, could satisfy a reasonable fact finder that the claimant's injuries are not work-related. *See Newport News Shipbuilding & Dry Dock Co. v. Holiday*, 591 F.3d 219, 225-226 (4th Cir. 2009). A physician's unequivocal opinion that the claimant does not suffer from the alleged injury or that no relationship exists between the employee's injury and his employment is sufficient to rebut the presumption. *See generally Sylejmani v. Fluor Conops, Ltd.*, 57 BRBS 25, 31 (2023); *Suarez*, 50 BRBS at 36; *Cline v. Huntington Ingalls, Inc.*, 48 BRBS 5, 6-7 (2013); *O'Kelley*, 34 BRBS at 41-42.

Dr. Collins concluded Claimant has no work-related health impairment, psychiatric condition, or PTSD based on his validity and psychiatric testing results, which were elevated and showed overreporting of symptoms, his presentation at the evaluation, and his interview answers. EX 5 at 5-6, 11. As Dr. Collins's unequivocal medical opinion is sufficient to satisfy an employer's burden of production on rebuttal, we affirm the ALJ's finding that Employer rebutted the Section 20(a) presumption as to Claimant's psychological injury. *Sylejmani*, 57 BRBS at 31; *Suarez*, 50 BRBS at 36; *Cline*, 48 BRBS at 6-7; *O'Kelley*, 34 BRBS at 41-42.

Weighing of the Evidence

Claimant next asserts the ALJ erred at the weighing stage of the causation analysis. Cl. PR at 17-22. If the employer rebuts the Section 20(a) presumption, as in this case, it no longer applies, and the issue of causation must be resolved based on the evidence in the record, with the claimant bearing the burden of persuasion. *Rainey*, 517 F.3d at 634; *Marinelli*, 248 F.3d at 65; *Santoro v. Maher Terminals, Inc.*, 30 BRBS 171, 175 (1996); *see also Director, OWCP v. Greenwich Collieries [Ondecko]*, 512 U.S. 267 (1994). 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).

The ALJ is entitled to weigh the evidence and to draw her own inferences from it; she is not bound to accept the opinion or theory of any particular expert. *See Pietrunti*, 119 F.3d at 1042; *Sealand Terminals, Inc. v. Gasparic*, 7 F.3d 321, 323 (2d Cir. 1993). 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), but 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 a reasonable opinion of an ALJ even if the evidence could support other reasonable inferences or conclusions. *Gasparic*, 7 F.3d at 323; *Volpe v. Ne. Marine Terminals*, 671 F.2d 697, 700 (2d Cir. 1982); *Perini Corp. v. Hyde*, 306 F. Supp. 1321, 1325-1326 (D.R.I. 1969); 20 C.F.R. §802.301(a).

Claimant contends his testimony and the opinions of Dr. Valderrama Escalante and Dr. Guerrero establish a work-related injury and should be given greater weight than Dr. Collins’s opinion. Cl. PR at 17. The ALJ, however, found Claimant’s testimony to be vague with numerous inconsistencies.⁸ D&O at 33. She accorded little weight to the

⁸ The ALJ detailed specific inconsistent testimony on several topics: events that occurred during Claimant’s employment; his reasons for leaving employment; onset of symptoms; post-Iraq work and job applications; and the severity of his symptoms and their effect on his daily living. For example, Claimant told Dr. Collins he requested a discharge because of his work environment and missing his family and stated in his deposition that

reports of Dr. Valderrama Escalante and Dr. Guerrero, finding their opinions “not well-reasoned, not well-documented, and not persuasive.” D&O at 34, 38-39. In addition, she described Dr. Valderrama Escalante’s opinion as “brief” and “conclusory,” as he did not administer a mental status examination or psychological tests, and she found his treatment notes repetitive and lacking information about Claimant’s progress, the effects of his symptoms, or any specific treatment plan, despite the doctor’s prescribing medication.

The ALJ further noted both Dr. Valderrama Escalante’s and Dr. Guerrero’s opinions fundamentally relied on Claimant’s self-reported symptoms, specifically finding Dr. Guerrero’s reports “lacking in any support from objective testing.” *Id.* at 38. Although Dr. Guerrero conducted brief subjective mental status examinations and based her findings on Claimant’s answers, the ALJ recognized Dr. Guerrero found “no objectively apparent abnormalities in Claimant’s presentation.” She also found the test results did not support Dr. Guerrero’s conclusions and accepted Dr. Collins’s review of Dr. Guerrero’s report which explained why deficiencies in it undermined Dr. Guerrero’s opinion. *Id.*

Conversely, the ALJ gave “significant weight” to Dr. Collins’s report, finding his opinion that Claimant does not have PTSD or any psychiatric condition “well-reasoned, well-documented, and persuasive.”⁹ D&O at 39-40. The ALJ noted Dr. Collins identified inconsistencies between Claimant’s reported symptoms and his medical records, behavior, and functionality. *Id.* at 35. Dr. Collins also observed inconsistencies in Claimant’s interview, deposition, and discovery responses. *Id.* For example, he stated Claimant

his employment concluded because of psychological issues and missing his son; however, also in his deposition in answer to whether he could have renewed his contract, he responded in the negative. D&O at 31; EX 5 at 3; EX 11 at 15. He also reported different years regarding the onset of his symptoms (2008 and 2011) and the start of his mental health treatment (2008, 2014, and 2021), which conflicted with the medical records. D&O at 31; EX 5 at 3, 9; EX 11 at 15-19; CX 24 at 16-17; CX 28 at 2. Moreover, the ALJ found Claimant’s consistent employment after returning to Peru (one-year at a cooking class, as well as working as a taxi driver, security guard for a mining company, and a grocery store assistant) and his daily activities (maintaining family relationships, caring for pets, playing sports, and socializing) do not support his claim of having disabling psychological symptoms.

⁹ We reject Claimant’s allegation that the ALJ erred in characterizing Dr. Collins’s evaluation as “independent.” Cl. PR at 17-20. 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. Collins’s evaluation and report were generated at Employer’s request. *See generally Suarez*, 50 BRBS at 37.

reported severe depression, anxiety, and PTSD symptoms, but showed no visible emotional distress during his examination, behaving normally and even smiling and laughing. *Id.* Dr. Collins observed that any thought disorder symptoms Claimant endorsed, such as delusions, hallucinations, or psychosis, were inconsistent with his behavior or his current reported functioning. *Id.* He also opined that Claimant appeared evasive when sharing personal information, such as his job as a taxi driver and his experiences in Iraq, and “that the onset and reported course of Claimant’s PTSD symptoms was atypical,” noting the “delayed onset and persistence of symptoms over time.” *Id.*

We reject Claimant’s assertions that the ALJ’s credibility findings were based on multiple mistakes, and that she failed to consider all the evidence and the congressional intent behind the Act. Cl. PR at 24-25.¹⁰ It is well established that the ALJ has discretion in evaluating and weighing the evidence, as she did here, and may draw inferences from the evidence. The ALJ thoroughly explained her findings. *Hughes*, 289 F.2d 404 (2d Cir. 1961); *see Heyde*, 306 F. Supp. at 1325 (the fact-finder may draw inferences and make findings that are reasonable and supported by substantial evidence); *see also Carswell* 999 F.3d at 32 (the Board cannot re-weigh the evidence; rather, if the ALJ’s conclusion upon weighing the evidence is rational and supported by substantial evidence, as it is here, it must be affirmed).

Likewise, we also reject Claimant’s contention that the ALJ violated the Administrative Procedure Act (APA), 5 U.S.C. §557 by failing to weigh multiple pieces of evidence. Cl. PR at 27. Claimant asserts it is unclear whether the ALJ considered Claimant’s employment contract, certificates, employment contract, discovery responses, as well as the parties’ stipulations and photographs. *Id.* But 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.¹¹ *Montoya v. Navy Exch.*

¹⁰ The congressional intent behind the Act is not at issue. Rather, at issue is whether Claimant established he has a work-related injury by a preponderance of the evidence, and whether the ALJ weighed the evidence as a whole and permissibly determined Claimant was not credible. D&O at 33; *see O’Keeffe*, 380 U.S. at 362 (we must affirm the ALJ’s findings of fact and conclusions of law if they are rational and supported by substantial evidence).

¹¹ To support his argument, Claimant cites *Mitchell v. Island Creek Kentucky Mining & Dir.*, OWCP, BRB No. 19-0313 BLA (May 29, 2020), an unpublished case arising under the Black Lung Benefits Act, 30 U.S.C. §§901-944 (2018). Cl. PR at 27 n.133. We note this case is not precedential. Moreover, *Mitchell* did not involve an ALJ’s failure to consider certain evidence at the weighing stage of the causation analysis. Rather, in *Mitchell*, the Board found the ALJ failed to adequately explain his conclusion that the x-

Serv. Command, 49 BRBS 51, 52 n.1 (2015); *Plappert v. Marine Corps Exch.*, 31 BRBS 109, 111 (1997). The APA “does not require the ALJ to discuss every piece of evidence; the duty of explanation is satisfied so long as the ALJ makes clear what [s]he did and why [s]he did it.” *Clinchfield Coal Co. v. Director, OWCP [Vanderpool]*, 164 F.4th 342, 347 (4th Cir. 2026). Contrary to Claimant’s assertions, the ALJ carefully reviewed and considered all the relevant evidence and detailed the rationale behind her causation findings, and her decision accords with the APA’s requirements. 5 U.S.C. §557(c)(3)(A); D&O 2-27; *see Santoro*, 30 BRBS at 172; *Cairns v. Matson Terminals, Inc.*, 21 BRBS 252, 256-257 (1988) (ALJ considered all evidence to find no rebuttal); *compare with Cotton v. Newport News Shipbuilding & Dry Dock Co.*, 23 BRBS 380, 382-385 (1990) (Board remanded case for ALJ to consider all relevant evidence).

Accordingly, we affirm the ALJ’s Decision and Order.

SO ORDERED.

DANIEL T. GRESH, Chief
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge

GLENN E. ULMER
Administrative Appeals Judge

ray evidence as a whole did not support a finding of the existence of pneumoconiosis. Consequently, there was a lack of adequate explanation, not a failure to consider evidence.