



BRB No. 24-0337

LUDIM CASTANEDA PINO)
)
 Claimant-Petitioner)
)
 v.)
)
 CONSTELLIS GROUP/TRIPLE CANOPY,)
 INCORPORATED and SOC, LLC)
)
 and)
)
 CONTINENTAL INSURANCE COMPANY)
)
 Employers/Carrier-)
 Respondents¹)

NOT-PUBLISHED

DATE ISSUED: 03/23/2026

DECISION and ORDER

Appeal of the Decision and Order Denying Benefits of Jerry R. DeMaio, Administrative Law Judge, United States Department of Labor.

Allison T. Graber, Jacob S. Garn and Arjun Sahni (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 Constellis Group/Triple Canopy, Inc. and its Carrier.

Sherman W. Jones, III and Kerry M. Chilton (Brown Sims), Houston, Texas, for Employer SOC, LLC and its Carrier.

¹ Claimant filed psychological injury claims against two separate Employers, Constellis Group/Triple Canopy, Inc. (2021-LDA-08293), and SOC, LLC (2021-LDA-02894). Both Employers are insured by the same Carrier, Continental Insurance Company.

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

PER CURIAM:

Claimant appeals Administrative Law Judge (ALJ) Jerry R. DeMaio's Decision and Order Denying Benefits (2021-LDA-02893 and 2021-LDA-02894) rendered on claims 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.² 33 U.S.C. §921(b)(3); *O'Keefe v. Smith, Hinchman & Grylls Assocs., Inc.*, 380 U.S. 359 (1965).

Claimant, a citizen of Peru, worked for Triple Canopy as an armed security guard in Iraq from November 2007 to November 2010 and subsequently underwent training to work as a security guard with SOC from February to March 2012. Claimant's Exhibit (CX) 27 at 2. During his employment with Triple Canopy, Claimant stated he experienced several mortar and rocket attacks, including the following specific incidents: a mortar attack in 2008 while he was showering in an unsheltered area; a rocket attack at Camp Sullivan in July 2010 that killed a Peruvian security guard; and an attack at Camp Condor in August 2010 where he ran out of his room to find a Ugandan lieutenant lying unresponsive on the floor. CX 21 at 3-4; CX 22 at 3-4; CX 27 at 3; Triple Canopy Exhibit (TCX) 2 at 3. He also witnessed injured individuals being brought in by helicopter for medical treatment and had a friend who was injured in a mortar attack. CX 22 at 3-4; TCX 2 at 3. While training with SOC, Claimant was taught how to screen for weapons and explosives and was advised to use deadly force when necessary. CX 27 at 3.

On June 10, 2020, Claimant met with psychologist Dr. Eduardo Avila Suarez, reporting the following symptoms: excessive fear, anxiety, an inability to control his reactions, sleepwalking, tearfulness, anger, irritability, isolation, impatience, and violence with his partner. CX 21 at 2, 4. Dr. Avila Suarez diagnosed Claimant with post-traumatic stress disorder (PTSD) "due to the aftermath of war" but did not offer any treatment

² 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); *McDonald v. Aecom Tech. Corp.*, 45 BRBS 45, 47 (2011); *see also Glob. Linguist Sols., L.L.C. v. Abdelmegeed*, 913 F.3d 921, 922 (9th Cir. 2019).

recommendations. *Id.* at 4. Claimant returned to Dr. Avila Suarez on December 10, 2021, with complaints of recalling traumatic events when he hears sirens, frequent crying, anger, irritability, sleep difficulties, nightmares, and violence towards his partner. CX 21 at 11-12. Dr. Avila Suarez recommended physical exercise, breathing and relaxation exercises, spiritual activities, and continued psychotherapeutic and psychiatric treatment.³ *Id.* at 12.

On November 5, 2021, at Employer's request, neuropsychologist Dr. Jessica Groberio evaluated Claimant, reviewed Dr. Avila Suarez's report, and administered several tests.⁴ TCX 2 at 5. Dr. Groberio noted Claimant complained of irritability, aggressiveness, excessive tearfulness, and abnormal sleep behaviors but denied nightmares, changes in his appetite, and anxiousness. *Id.* at 2, 4. She concluded Claimant did not exhibit any psychiatric disorders, including PTSD, anxiety, or major depressive disorder. *Id.* at 7.

On December 22, 2022, psychologist Dr. Gustavo R. Benejam conducted a medical evaluation of Claimant. CX 22 at 1. Dr. Benejam reviewed Claimant's employment documents, as well as the records of Drs. Avila Suarez and Groberio, and administered several tests.⁵ *Id.* at 1-7. He noted Claimant complained of sleep disturbances, irritability, anxiety, trouble concentrating and interacting with others, an escalation of physical violence, nightmares, and avoidant behaviors. *Id.* at 4-5, 15. In addition, he indicated Claimant endorsed intensifying symptoms such as hypervigilance, depression, detachment from others, intrusive thoughts, excessive worry, negative cognitions, and appetite disturbance. *Id.* at 5. He diagnosed Claimant with Other Specified Trauma and Stressor-Related Disorder and Major Depressive Disorder as well as chronic PTSD. *Id.* at 9, 16-17.

³ Despite this recommendation, Claimant reported that he did not continue treatment with Dr. Avila Suarez because he could not afford it, and he denied ever treating with a psychiatrist or taking psychotropic medications. TCX 2 at 5.

⁴ Dr. Groberio evaluated Claimant in-person in Peru with an interpreter and administered the following assessments: the Beck Anxiety Inventory (BAI); the Beck Depression Inventory (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); the Performance and Symptom Validity Tests (names omitted for test security); the PTSD Checklist for DSM-5 (PCL-5); and the World Health Organization Disability Assessment Schedule (WHODAS 2.0). TCX 2 at 5.

⁵ Dr. Benejam administered the following tests: the Mental Status Examination; the BDI-II; the BAI; the Paranoia Worries Questionnaire (PWQ); the PCL-5; the CAPS-5 – Past Month Version; the WHODAS 2.0; the Structured Inventory of Malingering Symptomatology (SIMS); and the Miller Forensic Assessment of Symptoms Test (M-FAST). CX 22 at 6.

On July 16, 2020, Claimant filed two claims, one against each Employer, seeking benefits for work-related psychological injuries. Joint Exhibit (JX) 1; CX 1. The claims were forwarded to the Office of Administrative Law Judges (OALJ), where the parties opted for them to be adjudicated by submission of the evidence in lieu of an in-person hearing.⁶

On May 8, 2024, the ALJ issued his Decision and Order Denying Benefits (D&O). The ALJ determined Claimant invoked the Section 20(a) presumption, 33 U.S.C. §920(a), that his psychological injury is related to his work for Employers, and that Employers rebutted the presumption. *Id.* at 12-13. Weighing the evidence as a whole, the ALJ found Claimant did not establish by a preponderance of the evidence that he suffered a work-related psychological injury. *Id.* at 13-16. He therefore denied both claims. *Id.* at 16.

Claimant appeals, challenging the ALJ's causation findings as to his psychological injury. Employers respond, urging affirmance. Claimant filed reply briefs, reiterating his arguments.

Claimant first asserts the ALJ improperly found that Employers rebutted the Section 20(a) presumption as to his alleged psychological injuries. Claimant's Petition for Review and Brief (Cl. PR) at 5. Particularly, he argues the ALJ erred in finding Dr. Groberio's report constitutes substantial evidence sufficient to rebut the Section 20(a) presumption, as Claimant asserts her medical opinion was filled with inconsistencies and factual mistakes. *Id.* at 5.

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, 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). A physician's unequivocal opinion that no relationship exists between the employee's injury and his employment is sufficient to rebut the presumption. *See generally Suarez*, 50 BRBS at 36;

⁶ Both matters were initially assigned to ALJ Timothy J. McGrath but were reassigned to ALJ DeMaio upon ALJ McGrath's retirement. D&O at 2.

Cline v. Huntington Ingalls, Inc., 48 BRBS 5, 6-7 (2013); *O'Kelley*, 34 BRBS at 41-42.

The ALJ found Dr. Groberio's report sufficient to rebut the Section 20(a) presumption as to Claimant's alleged psychological injury because she concluded Claimant did not suffer from any psychiatric condition. D&O at 13; TCX 2 at 7. Dr. Groberio based her opinion on Claimant's test results and the information provided during his clinical interview. D&O at 13; TCX 2. After reviewing Dr. Benejam's report, she concluded that her diagnostic impression of Claimant had not changed. D&O at 13; TCX 3 at 8. As the ALJ correctly found, Dr. Groberio's unequivocal medical opinion is sufficient to satisfy an employer's burden of production on rebuttal and, therefore, we affirm his finding that Employer rebutted the Section 20(a) presumption as to Claimant's psychological injury. *Suarez*, 50 BRBS at 36; *Cline*, 48 BRBS at 6-7; *O'Kelley*, 34 BRBS at 41-42; see D&O at 13.

Claimant next asserts the ALJ erred at the weighing stage of Section 20(a)'s causation analysis for his claimed psychological injury. 33 U.S.C. §920(a); Cl. PR at 19. 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). The ALJ is entitled to weigh the evidence and to draw his own inferences from it; he is not bound to accept the opinion or theory of any particular expert. See *Pietrunti v. Director, OWCP*, 119 F.3d 1035, 1042 (2d Cir. 1997); *Sealand Terminals, Inc. v. Gasparic*, 7 F.3d 321, 323 (2d Cir. 1993); *John W. McGrath Corp. v. Hughes*, 289 F.2d 403 (2d Cir. 1961). The Benefits Review Board may not reweigh the evidence or substitute its opinion for that of the ALJ even if the evidence could support other inferences or conclusions. *Gasparic*, 7 F.3d at 323; *Volpe v. Ne. Marine Terminals*, 671 F.2d 697, 700 (2d Cir. 1982); *Perini Corp. v. Heyde*, 306 F. Supp. 1321, 1325-1326 (D.R.I. 1969).

Claimant argues the ALJ's findings, which give greater weight to Dr. Groberio's medical opinion over Dr. Benejam's, are not supported by the evidence. The ALJ gave minimal weight to Drs. Avila Suarez's and Benejam's opinions. D&O at 15. The ALJ found that Dr. Avila Suarez's failure to fully document or explain his reasoning for his PTSD diagnosis or provide a treatment plan in his initial report undermines his opinion.⁷

⁷ We reject Claimant's argument that the ALJ erred by failing to give his treating physicians' opinions "considerable and special weight." Cl. PR at 16. Where there are conflicting medical opinions, as here, the ALJ is not required to automatically give "special weight" to the treating physicians' opinions. *Kkunsa v. Constellis Grp./Triple Canopy, Inc.*, 59 BRBS 1, 4 (2025). Rather, he must consider all relevant evidence, assess the

Id.; *see also* CX 21 at 4.

The ALJ similarly noted inconsistencies undermined Dr. Benejam's conclusions and evaluation of Claimant. *Id.* at 16. For instance, Claimant's testing results indicated mild depression, minimal anxiety, and minimal PTSD symptomatology, yet Dr. Benejam concluded Claimant suffered from Other Specified Trauma and Stressor-Related Disorder and Major Depressive Disorder without explaining how he arrived at these diagnoses. D&O at 15-16; *see* CX 22 at 9. The ALJ also noted Dr. Benejam changed his diagnoses – initially diagnosing Claimant with Other Specified Trauma and Stressor-Related Disorder and Major Depressive Disorder, then later concluding Claimant suffers from PTSD and Major Depressive Disorder, which he confusingly described as both “mild” and “severe.” D&O at 16; *see* CX 22 at 9, 15-19. As a result of these inconsistencies and Dr. Benejam's failure to explain them, the ALJ gave his opinion minimal weight. D&O at 16.

Conversely, the ALJ gave greater weight to Dr. Groberio's report, finding her opinion “well-reasoned and well-documented” that Claimant did not have a psychiatric condition. D&O at 15. The ALJ noted Dr. Groberio evaluated Claimant in-person with an interpreter and determined that he reported no anxiety and minimal symptoms related to depression and PTSD.⁸ D&O at 15; *see* TCX 2 at 5-6. He acknowledged being aggressive towards his partner and engaging in arguments but indicated that their relationship had since improved. D&O at 15; *see* TCX 2 at 4. Additionally, Claimant reported working full-time without any limitations or functional disability. D&O at 15; *see* TCX 2 at 2, 6. The ALJ rejected Claimant's allegations of Dr. Groberio's general bias in favor of employers, noting her documented test results were very similar to those documented by Dr. Benejam. D&O at 15; *see* TCX 2 at 6-7; CX 22 at 7-9.

We reject Claimant's contention that the ALJ erred in crediting Dr. Groberio's opinion because, Claimant alleges, she relied on several factual mistakes.⁹ Cl. PR at 16;

weight and credibility of each opinion, and explain his rationale in reaching a decision on the evidence. *Id.* at 4-5.

⁸ Claimant received a raw score of zero on the BAI for assessing anxiety, two on the BDI-II for assessing depression, and two on the PCL-4 for assessing PTSD. *See* TCX 2 at 6. Claimant's primary symptoms included “irritability and tearfulness,” along with occasional abnormal sleep behaviors. *Id.* at 4, 7.

⁹ We likewise reject Claimant's allegation that the ALJ made a factual error in characterizing Dr. Groberio's evaluation as “independent.” Although this characterization of his report as “independent” 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. Groberio's

see Heyde, 306 F. Supp. at 1325 (the fact-finder may draw inferences and make findings that are reasonable and supported by substantial evidence). Claimant argues Dr. Groberio “failed to pay any specific deference” to the performance and symptom validity test scores, which indicated Claimant was credible and did not over-report symptoms. Cl. PR at 6-7; TCX 2 at 6. While Dr. Groberio agreed Claimant was consistent in his reporting and “passed” all validity testing, *see* JX 2 at 6, Claimant fails to explain why this should override her other findings that Claimant reported minimal depression and anxiety, endorsed very few psychological symptoms, and denied functional impairments. TCX 2 at 4, 6; JX 2 at 6. Claimant also contends Dr. Groberio failed to properly apply the CAPS-5 criteria for diagnosing PTSD, as evidenced by her finding that he did not satisfy Criterion A, exposure to traumatic events, despite his consistent and credible reporting of several traumatic experiences during his employment. Cl. PR at 11. But Dr. Groberio testified that even if one of Claimant’s many traumatic experiences had satisfied Criterion A, his described symptoms failed to meet all the remaining criteria, a finding Dr. Benejam also made. JX 2 at 4-6; TCX 2 at 7; CX 22 at 8.

We reject Claimant’s assertion that the ALJ automatically deferred to Dr. Groberio’s opinion instead of considering Claimant’s own credible testimony. *Id.* at 25-26. The ALJ did find Claimant somewhat consistent in reporting his symptoms and traumatic events to Drs. Avila Suarez, Benejam, and Groberio, but he noted Claimant’s sworn statement contained little information about his life after leaving Iraq in 2010 or his employment with SOC. *Id.* at 14, 25; *see* CX 27. He further noted inconsistencies within Claimant’s reporting to medical providers. For instance, Dr. Groberio noted Claimant reported that his symptoms were “stable” at the time of her evaluation, TCX 2 at 4, while Dr. Benejam noted that his evaluation results supported significant symptoms, causing “significant impairments in functioning.” CX 22 at 6, 9. Nevertheless, the ALJ weighed the evidence as a whole and permissibly determined Claimant had “credibility concerns.” *Id.*; *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).

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 when determining whether Claimant was entitled to benefits.¹⁰ Cl. PR at 28. Claimant asserts it

evaluation and report were generated at Employer’s request. *See generally Suarez*, 50 BRBS at 37.

¹⁰ The ALJ carefully reviewed and considered all the relevant evidence and detailed the rationale behind her causation findings. 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*

is unclear whether the ALJ considered numerous items in the record.¹¹ *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.¹² *Montoya v. Navy Exch. Serv. Command*, 49 BRBS 51, 52 n.1 (2015); *Plappert v. Marine Corps Exch.*, 31 BRBS 109, 111 (1997).

Claimant in essence simply requests that the Board reweigh the evidence, which it cannot do. *Gasparic*, 7 F.3d at 323; *see also Carswell v. E. Pihl & Sons*, 999 F.3d 18, 32 (1st Cir. 2021) (if the ALJ's conclusion upon weighing the evidence is rational and supported by substantial evidence, as it is here, it must be affirmed even if the Board would have reached a different conclusion); *Clinchfield Coal Co. v. Director, OWCP [Vanderpool]*, 164 F.4th 342, 347 (4th Cir. 2026) (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 he did and why he did it") (citation modified). Because the ALJ's weighing of the evidence as a whole is rational and because substantial evidence supports the ALJ's decision to credit Dr. Groberio's opinion over Dr. Benejam's, *Pietrunti*, 119 F.3d at 1042; *Gasparic*, 7 F.3d at 323; *Hughes*, 289 F.2d at 405; *Pisaturo v. Logistec, Inc.*,

Dock Co., 23 BRBS 380, 382-385 (1990) (Board remanded case for ALJ to consider all relevant evidence). Thus, the ALJ's decision accords with the APA's requirements. *See* 5 U.S.C. §557(c)(3)(A).

¹¹ Claimant argues the ALJ erred by not addressing Employer's failure to respond to certain of Claimant's discovery requests. Cl. PR at 29-30. But the record shows that on April 27, 2023, Claimant filed an Unopposed Motion for Leave to remove the issue related to the discovery requests from their Closing Argument Brief before the ALJ and to amend Claimant's Exhibit (CX 14) to exclude the allegedly unanswered discovery. Triple Canopy's Response Brief (TC Resp.) at 20-21; SOC's Response Brief (SOC Resp.) at 31; *see also* Claimant's Unopposed Motion for Leave to Amend Brief and Amend CX 14. On May 2, 2023, the ALJ granted Claimant's Unopposed Motion for Leave. TC Resp. at 21; SOC Resp. at 31. Claimant thus forfeited this argument.

¹² 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 (2012). Cl.'s Br. at 29 n.137. 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-ray evidence as a whole did not support the existence of pneumoconiosis. Consequently, there was a lack of adequate explanation, not a failure to consider evidence.

49 BRBS 77, 81 (2015), we affirm the ALJ's finding that Claimant's alleged psychological condition is not work-related. *Sistrunk v. Ingalls Shipbuilding, Inc.*, 35 BRBS 171, 174 (2001); *Coffey v. Marine Terminals Corp.*, 34 BRBS 85, 87 (2000).

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

GLENN E. ULMER
Administrative Appeals Judge