

U.S. Department of Labor

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



BRB No. 24-0083

SASA NIKOLIC

Claimant-Petitioner

v.

DYNCORP INTERNATIONAL, LLC

and

STARR INDEMNITY & LIABILITY
COMPANY

Employer/Carrier-
Respondents

NOT-PUBLISHED

DATE ISSUED: 09/16/2025

DECISION and ORDER

Appeal of the Decision and Order Denying Benefits of Stephen R. Henley,
Chief Administrative Law Judge, United States Department of Labor

Veronica T. Garcia (The Law Office of George P. Escobedo, PLLC), San
Antonio, Texas, for Claimant.

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

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

PER CURIAM:

Claimant appeals Chief Administrative Law Judge (ALJ) Stephen R. Henley's
Decision and Order Denying Benefits (2021-LDA-02447) 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 allegedly sustained a psychological injury due to his work for Employer as a firefighter and fire crew chief in Afghanistan from 2010 to 2013 and from August 2018 to November 2020.² Joint Exhibit (JX) 7 at 34-38, 43; Hearing Transcript (HT) at 17-18, 38-39. He testified he experienced multiple rocket attacks, explosions, and gunfire and witnessed numerous injured people being transported to the hospital while working for Employer. JX 7 at 77-80, 84; HT at 21-26, 40. In April 2020, he saw a helicopter crash and assisted in rescuing the injured passengers. JX 7 at 79-83; HT at 27. He testified the crash "affected [him] greatly." JX 7 at 82. In August 2020, he heard two detonations while at the fire department and, on his way to a bunker, he saw a flash and shrapnel from another detonation. JX 7 at 75; HT at 22-23. He estimated he was no more than fifty to 100 meters from the detonation. HT at 22-23. He testified that while he had experienced other attacks, he did not "tak[e] them seriously until" the August 2020 attack, when he realized he was a "target." JX 7 at 75-79.

Claimant testified after the August 2020 attack, he became "very aggressive," short-tempered, easily startled, and disagreeable and that he experienced stress and "very intense" fear "all the time," which made it difficult for him to complete his work. JX 7 at 56-71, 77-78; HT at 20. He also maintained he began suffering from vertigo, hyperventilation, nightmares, audio flashbacks, shaking hands, and sweating. JX 7 at 56-71, 77-78, 96. In October 2020, Claimant returned home while on leave from work, and on November 23, 2020, he gave Employer notice that he would not be returning. JX 7 at 86; Employer's Exhibit (EX) 1; HT at 38-39. He testified he stopped working for Employer because of his symptoms, and his aggressive behavior decreased after leaving his work and

¹ This case arises within the jurisdiction of the United States Court of Appeals for the Second Circuit because the office of the district director who filed the ALJ's decision is located in New York. 33 U.S.C. §921(c); *Glob. Linguist Sols., L.L.C. v. Abdelmegeed*, 913 F.3d 921 (9th Cir. 2019); *McDonald v. Aecom Tech. Corp.*, 45 BRBS 45 (2011).

² Claimant worked for PAE as a firefighter, driver-operator, and fire crew chief in Iraq from 2014 to 2015, and for KBR as a firefighter and fire crew chief in Iraq from 2016 to 2018. JX 7 at 31, 38-39; HT at 55.

beginning treatment and medication.³ JX 7 at 62-63, 86-87. He has not worked since leaving Afghanistan. *Id.* at 50.

Claimant testified that upon arriving home in October 2020, he sought treatment with Dr. Djuza, a general practitioner, who referred him to a cardiologist and neurologist, which led him to seek psychiatric treatment. JX 7 at 87-93. On December 1, 2020, Claimant met with Dr. Florije Shunjaku, a psychiatrist,⁴ who noted Claimant reported increasing symptoms over the month before he returned home, including fear, confusion, laziness, loss of will for life, uncertainty, low self-esteem, sleeplessness, and impulsiveness. Claimant's Exhibit (CX) 2 at 1. She diagnosed Claimant with post-traumatic stress disorder (PTSD) that needed further evaluation to determine the severity, opined his symptoms were due to his life-threatening experiences in Iraq between 2016 and 2018 and Afghanistan between 2018 and 2020, prescribed medications, and recommended cognitive behavioral therapy. *Id.* On December 7, 2020, Dr. Shunjaku and Mr. Skender Shala, a psychologist,⁵ conducted a joint evaluation resulting in a "Clinical Specialist Report" and concluded Claimant has "severe" PTSD and is "[h]eavily touched by traumatic experiences" based on his twelve "high-intensity responses" to the post-traumatic reaction index questions. *Id.* at 2.

From December 28, 2020, through October 5, 2022, Claimant underwent therapeutic treatments with Mr. Shala, and he met with Dr. Shunjaku on November 4, 2021, March 4, 2022, and November 5, 2022. CXs 1, 2 at 3-7. Mr. Shala noted Claimant's symptoms did not "significant[ly]" change over the course of treatment, and his condition remained "aggravated and unstable." CX 1 at 4-16. Mr. Shala opined Claimant's experiences "staying in countries involved" in armed conflicts severely affected his "confidence, security, and self-control." *Id.* at 4-16. Throughout 2022, Mr. Shala noted Claimant reported increasing aggression, dissatisfaction, fear, and panic attacks. *Id.* at 12-20. Similarly, Dr. Shunjaku's reports also noted Claimant's condition is "unstable" and without substantial changes, despite receiving medication and psychotherapeutic support, and that he has unpredictable panic attacks. CX 2 at 3-7. She recommended continued

³ Claimant denied sustaining any work-related injuries or illnesses in his Notice of Separation from Employer. EX 1 at 3; HT at 38-40.

⁴ The ALJ determined Dr. Shunjaku is a specialist doctor of psychiatry. Decision and Order (D&O) 7; CX 4 at 1.

⁵ As the ALJ noted, the record does not contain any medical credentials or reference to a medical degree for Mr. Shala. D&O 6 n.8.

therapeutic treatment and medications and opined he “would eventually be able to” work with many limitations. *Id.* at 3-7.

On January 18, 2021, Claimant filed his claim seeking benefits for work-related psychological injuries. JX 1. Employer controverted the claim on February 23, 2021. JX 3.

At Employer’s request, Dr. Steve Shindell, a clinical neuropsychologist, evaluated Claimant on May 9, 2022.⁶ EX 12. He reviewed Claimant’s treatment records, reported symptoms, and employment history including his accounting of traumatic experiences while working for Employer. *Id.* at 1-5. He also conducted a clinical interview and administered five psychological tests.⁷ *Id.* at 1-5. He opined Claimant’s testing results, which measured performance and symptom validity, were “consistent with exaggeration” and inconsistent with his “behavioral presentation or prior stressors.” *Id.* at 5-6. Further, he opined “while potentially distressing, his events as described would be highly unlikely to cause symptoms that were only diagnosed as soon as he finished employment.” *Id.* at 7. He concluded there was not “credible data that would suggest either a diagnosis of PTSD or any psychological condition” caused or aggravated by his work for Employer. *Id.* at 6-7. In his supplemental report and deposition testimony, Dr. Shindell reiterated that Claimant’s testing results indicated exaggeration and that his reported incidents would be unlikely to cause “this temporal pattern and intensity of symptoms” nor were they “at the level that would typically cause permanent or long-term difficulties.” EXs 17 at 2-4, 27 at 20-29.

The case was transferred to the Office of Administrative Law Judges for a video hearing, held on January 18, 2023. The ALJ found Claimant invoked the Section 20(a) presumption, 33 U.S.C. §920(a), linking his work to his alleged psychological injury, and Employer rebutted the presumption. D&O at 16-17. Weighing the evidence as a whole, the ALJ found Claimant failed to establish a psychological injury caused by his work for Employer and denied benefits. *Id.* at 17-21.

⁶ Dr. Shindell is a licensed psychologist and has a Ph.D. in clinical psychology. EX 13.

⁷ Dr. Shindell administered the following tests: PTSD Checklist for DSM-5 (PCL-5); Morel Emotional Numbing Test (MENT); Miller Forensic Assessment of Symptoms (M-FAST); Word Memory Test; and Digit Span. EX 12 at 2.

On appeal, Claimant contends the ALJ erred in weighing the evidence as a whole. Employer responds, urging affirmance of the ALJ's decision. Claimant filed a reply brief reiterating his contentions.

Weighing the Evidence as a Whole

If a claimant invokes the Section 20(a) presumption that his injury is work-related and the employer successfully rebuts the presumption, as in this case, it drops out of the analysis and the issue of causation must be resolved based on the evidence of record as a whole with the claimant bearing the burden of persuasion by a preponderance of the evidence.⁸ *Rainey v. Director, OWCP*, 517 F.3d 632, 634 (2d Cir. 2008); *Am. Stevedoring Ltd. v. Marinelli*, 248 F.3d 54, 65 (2d Cir. 2001); *Santoro v. Maher Terminals, Inc.*, 30 BRBS 171 (1996); *see also Director, OWCP v. Greenwich Collieries*, 512 U.S. 267 (1994). The ALJ is entitled to weigh the evidence and draw his own inferences from it; he is not bound to accept the opinion or theory of any particular medical expert. *See Pietrunti v. Director, OWCP*, 119 F.3d 1035, 1042 (2d Cir. 1997); *John W. McGrath Corp. v. Hughes*, 289 F.2d 403, 405 (2d Cir. 1961). 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. *See 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).

Claimant contends the ALJ failed to “properly” consider the evidence as a whole, and the “preponderance of the evidence” demonstrates he suffered from a work-related injury. Cl. Brief at 8-9, 14-15, 18-20; Cl. Reply Brief at 3-5. Claimant further maintains the ALJ “inconsistently” considered his credibility in considering the medical evidence, relied “solely” on Dr. Shindell’s credentials and experience, and failed to consider whether Dr. Shindell provided a “truly neutral evaluation.” Cl. Brief at 8-18; Cl. Reply Brief at 3-5. We are not persuaded.

The ALJ first considered Claimant’s credibility. D&O at 18-19. He noted “[t]hough some details of Claimant’s self-reporting have varied,” his testimony regarding his

⁸ We reject Claimant’s apparent suggestion that the ALJ erred in finding Dr. Shindell’s report sufficient to rebut the Section 20(a) presumption because he “solely” focused on Dr. Shindell’s credentials. Cl. Brief at 8. The burden on rebuttal is one of production, not persuasion, and the ALJ properly found Dr. Shindell’s conclusion that Claimant does not suffer from work-related PTSD is sufficient to meet that burden. *See Rainey v. Director, OWCP*, 517 F.3d 632, 637 (2d Cir. 2008); *Rose v. Vectrus Sys. Corp.*, 56 BRBS 27, 32 (2022) (Decision on Recon. en banc), *appeal dismissed* (M.D. Fla. Aug. 24, 2023); D&O at 17.

experiences in a warzone and his treatment have been “largely” consistent. *Id.* at 18. The ALJ concluded Claimant’s testimony to be “credible as to his employment history, symptoms, and treatment” but did not address Employer’s argument about “malingering,” stating it would be “more appropriately addressed” when weighing the medical evidence as a whole. *Id.* at 18-19.

The ALJ then considered Dr. Shunjaku’s and Mr. Shala’s treatment notes and reports, which included diagnoses of PTSD and work-related psychological symptoms, and Dr. Shindell’s contrary opinion that Claimant does not have a work-related psychological injury. D&O at 19-21; CXs 1, 2; EXs 12, 17, 27. The ALJ stated Dr. Shunjaku’s and Mr. Shala’s evaluations “appeared” to be based on Claimant’s self-reported symptoms and found them to be conclusory because the providers failed to adequately explain their bases for diagnosing PTSD and because they did not sufficiently document Claimant’s work history and symptoms.⁹ D&O at 19-20. Consequently, he found Dr. Shunjaku’s opinion entitled to limited probative value and Mr. Shala’s opinion entitled to minimal probative value. *Id.* at 19-20.

In contrast, the ALJ found Dr. Shindell’s report well-documented and well-supported.¹⁰ D&O at 20-21. The ALJ noted Dr. Shindell conducted a clinical interview,

⁹ We are not persuaded by Claimant’s assertion that the ALJ erred in finding neither Dr. Shunjaku nor Mr. Shala “completed any real testing or evaluation” because the record contains their “Clinical Specialist Report.” Cl. Brief at 19-21; Cl. Reply Brief at 4-5. The report consists of sixteen questions used to measure the intensity of a patient’s symptoms (the post-traumatic reaction index). CX 2 at 2. The ALJ accurately acknowledged Dr. Shunjaku and Mr. Shala diagnosed Claimant with severe PTSD based, in part, on his responses to those questions. D&O at 8, 19-20; CXs 1 at 2, 2 at 2. The report is a compilation of Claimant’s answers and does not appear to constitute objective testing or critical evaluation of his responses. Neither Dr. Shunjaku nor Mr. Shala provided any explanation of the report apart from Mr. Shala summarizing it in his treatment notes. CX 1 at 2. Moreover, Claimant has not identified any additional testing conducted by Dr. Shunjaku or Mr. Shala.

¹⁰ Claimant contends the ALJ failed to address his argument regarding whether Dr. Shindell provided a “truly neutral evaluation.” Cl. Brief 16-18; *see* Cl. Post-Hearing Brief at 8-9 (unpaginated). Before the ALJ and the Board, Claimant alleges “there is nothing ‘independent’ about Dr. Shindell’s examination” because Dr. Shindell had been hired by the same law firm in multiple matters and he rarely diagnoses PTSD. Cl. Brief at 16-18; Cl. Post-Hearing Brief at 8-9. While the ALJ did not directly address Claimant’s concerns and referred to Dr. Shindell’s report as an independent medical report, he also accurately acknowledged Dr. Shindell was Employer’s medical expert. D&O at 9, 17. Additionally,

administered five objective tests, and recorded details about Claimant's work history. *Id.* at 20. He found Dr. Shindell's opinion that Claimant's self-reported symptoms were "exaggerated" was supported by the objective testing results, the deviations between those results, Claimant's self-reported symptoms, and the doctor's observations of Claimant's behavior during the clinical interview.¹¹ D&O at 20-21; *see* EXs 12 at 5-7, 17 at 2-4, 27 at 20-29, 39. Additionally, the ALJ found Dr. Shindell's concerns about Dr. Shunjaku's and Mr. Shala's evaluations to be persuasive.¹² D&O at 20-21; *see* EXs 12 at 5-7, 27 at 57. For these reasons, the ALJ concluded Dr. Shindell's opinion carried "significantly greater" probative weight than Dr. Shunjaku's and Mr. Shala's records, and the weight of the evidence demonstrated Claimant failed to establish a work-related psychological injury. D&O at 20-21.

Initially, we are not persuaded by Claimant's contention that the ALJ "inconsistent[ly]" weighed his credibility and the conflicting medical evidence. Cl. Brief at 14-16, 21; Cl. Reply Brief at 3-4. Claimant asserts the ALJ did not consider the "impact of Claimant's *credible testimony* as it relate[d]" to Dr. Shunjaku's and Mr. Shala's treatment notes, whereas the ALJ accepted Dr. Shindell's opinion "on his word." Cl. Brief at 14-16 (emphasis added). While the ALJ found "Claimant credible as to his employment history, symptoms, and treatment," he explained he would address Employer's argument about whether Claimant was "malingering" when weighing the evidence as a whole as opposed as to when he addressed Claimant's credibility. D&O at 18-19. In weighing the evidence, the ALJ detailed Dr. Shindell's concerns about Claimant's self-reporting, based on his objective testing results and behavioral presentation, and found Dr. Shindell's criticism of the treating providers' unsupported evaluations persuasive. *Id.* at 21. Consequently, despite finding Claimant "credible," given Dr. Shindell's well-documented explanations, the ALJ reasonably determined Claimant's treating providers' opinions were

in assessing the evidence as a whole, the ALJ's decision reflects that he appropriately evaluated the underlying reasoning and documentation of each medical opinion to determine its respective weight. *Id.* at 19-21.

¹¹ Dr. Shindell opined Claimant's "extreme" responses on the PCL-5 were "highly inconsistent" with his behavior and his recounting of his traumatic experiences while working for Employer. EX 12 at 5-6. He further opined Claimant's "abnormal" score on the M-FAST indicated exaggeration, and that "[f]ailure on even one test of performance or symptom validity is significant." *Id.* at 6.

¹² Dr. Shindell opined the treating providers' records "lack[ed] in detail," beyond Claimant's self-reported symptoms, and the providers did not conduct any validity testing. EXs 12 at 5-7, 27 at 57-58.

entitled to limited weight, in part, because they relied on Claimant's unreliable self-reported symptoms.¹³ See *Pietrunti*, 119 F.3d at 1042; *Gasparic*, 7 F.3d at 323; *Hughes*, 289 F.2d at 405.

Additionally, we reject Claimant's general contention that the ALJ erred by failing to weigh other evidence of record after considering the medical opinion evidence and his testimony. Cl. Brief at 9. The ALJ reviewed Employer's medical evaluations and treatment of Claimant from 2010, 2011, 2012, 2013, and 2018. D&O at 14-15; see EXs 6, 7, 8, 9, 10, 11. Regardless, as Claimant has not explained the relevance of those documents to the ALJ's causation analysis or how further consideration of them could have led to a different outcome, we reject the argument. See *Misho v. Global Linguist Solutions*, 48 BRBS 13 (2014).

Finally, contrary to Claimant's contentions, the ALJ did not limit his analysis "solely" to the medical experts' credentials; rather, as discussed above, the ALJ fully explained why he credited Dr. Shindell's opinion over Dr. Shunjaku's and Mr. Shala's treatment notes and reports. D&O at 19-21. Because the ALJ's weighing of the evidence is rational and supported by substantial evidence, *Pietrunti*, 119 F.3d at 1042; *Gasparic*, 7

¹³ We are also not persuaded by Claimant's reliance on *Pietrunti* to generally assert the ALJ erred in his consideration of Claimant's treating providers' opinions. Cl. Brief at 21; Cl. Reply Brief at 5. In *Pietrunti*, the Second Circuit held the ALJ's "reason for dismissing the findings of [the treating psychiatrist] had no substantial evidentiary foundation" and the ALJ improperly substituted his own medical judgment for the "uncontroverted and unanimous [medical] evidence." 119 F.3d at 1042-1043. This case, unlike *Pietrunti*, contains conflicting reports from three medical experts addressing whether Claimant has a work-related psychological injury; therefore, the ALJ was obligated to review and weigh all the evidence, which he did. See 119 F.3d at 1042; *Kkunsu v. Constellis Grp./Triple Canopy, Inc.*, 59 BRBS 1, 3-5 (2025).

F.3d at 323; *Hughes*, 289 F.2d at 405, we affirm his finding that Claimant has not established he has a work-related injury by a preponderance of the evidence and his denial of benefits. *Sistrunk v. Ingalls Shipbuilding, Inc.*, 35 BRBS 171, 174 (2001); *Coffey v. Marine Terminals Corp.*, 34 BRBS 85, 87 (2000); D&O at 19.¹⁴

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
Acting Administrative Appeals Judge

¹⁴ Because Claimant did not establish a work-related injury, we decline to address his remaining contentions about the ALJ's failure to address the extent of his disability and the availability of suitable alternate employment. Cl. Brief at 12-14; *see* D&O at 21 n.15.