U.S. Department of Labor

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

BRB No. 23-0190

CHASEON R. RILEY	)	
	)	
Claimant-Petitioner	)	
	)	
v.	)	
	)	
CARGILL, INCORPORATED	)	
	)	DATE ISSUED: 07/29/2024
and	)	
	)	
OLD REPUBLIC COMPANY, c/o SEDGWICK CLAIMS	)	
	)	
Employer/Carrier-Respondents	)	DECISION and ORDER

Appeal of the Decision and Order of Tracy A. Daly, Administrative Law Judge, United States Department of Labor.

John F. McKay (McKay Law Firm), Baton Rouge, Louisiana, for Claimant.

George J. Nalley, Jr., and Andrew J. Miner (Nalley, Dew & Miner), Metairie, Louisiana, for Employer.

Before: GRESH, Chief Administrative Appeals Judge, BOGGS and BUZZARD, Administrative Appeals Judges.

PER CURIAM:

Claimant appeals Administrative Law Judge (ALJ) Tracy A. Daly's Decision and Order (2020-LHC-00081) rendered on a claim filed pursuant to the Longshore and Harbor

Workers' Compensation Act, as amended, 33 U.S.C. §§901-950 (Act).[1] 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. 33 U.S.C. §921(b)(3); *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

On April 25, 2016, while working for Employer as a barge cover handler, Claimant was injured when his left ankle got caught in rigging and he fell backwards.[2] Joint Exhibit (JX) 1 at 1; JX 6 at 25; JX 19 at 1. He testified he immediately experienced back pain, but this pain subsided and turned into "jumping" and "burning" sensations in both legs. Hearing Transcript (HT) at 99. Later that day, he was taken to Prime Occupational Medicine (Prime), where he was treated for pain and tingling in both legs from his knees to his ankles. He was advised to take over-the-counter medications and released to return to his regular work. JX 6 at 24, 26, 30; JX 19 at 1.

Claimant returned to work on April 26, 2016, although he testified he did not actually perform any work until Prime released him from care on May 4, 2016, with a notation in the medical record from Prime that his pain had resolved. HT at 107-110; JX 6 at 32-35. Claimant testified he was initially tasked with the less physically demanding job of operating the fire hose, which he performed for about two weeks, and then he returned to his regular work as a barge cover handler, but with help from his co-workers. HT at 110-113, 157, 208. In June 2016, after completing the 45-day probationary period for new employees, Claimant was accepted as a full-time barge cover handler. HT at 316-319.

On September 11, 2016, Claimant went to the emergency room with complaints of bilateral leg pain radiating from both hips to his ankles. He felt a sudden onset of pain after twisting his body while playing with his daughter but described the pain as the same he had experienced following the April 2016 fall and indicated he had been experiencing this pain since that time.[3] HT at 121-122; JX 26 at 7. He denied back pain, numbness,

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[1] This case arises within the jurisdiction of the United States Court of Appeals for the Fifth Circuit because Claimant's injury occurred in Reserve, Louisiana. 33 U.S.C. §921(c); *see Roberts v. Custom Ship Interiors*, 35 BRBS 65, 67 n.2 (2001), *aff'd*, 300 F.3d 510 (4th Cir. 2002), *cert. denied*, 537 U.S. 1188 (2003); 20 C.F.R. §702.201(a).

[2] At the time of the accident Claimant had been working for Employer for about two weeks and did not spend time working on the dock until around April 15, 2016. Hearing Transcript (HT) at 151.

[3] This is contradicted by medical treatment records in July and September 2016. In July 2016, Claimant sought emergency medical treatment for bilateral knee pain but denied

weakness, or incontinence but testified this was the first time he understood, based on the treatment he received, that the pain symptoms in his legs might be related to his lumbar spine injury. HT at 124-125, 212; JX 26 at 7.

On September 14, 2016, Claimant told his primary care physician, Dr. Anu Vellanki,[4] his lower back pain with radiation into his legs "came out of nowhere" while he was playing at home with his daughter but could be related to the April 2016 fall.[5] JX 7 at 4. Claimant told Dr. Vellanki that he had only missed two days of work since the April 2016 accident, and he had not informed Employer he was working through pain. JX 7 at 7. Dr. Vellanki ordered an MRI of the lumbar spine and recommended Claimant see a neurosurgeon. JX 7 at 8.[6]

On November 14, 2016, neurologist Dr. Kenneth Gaddis evaluated Claimant.[7] Claimant reported experiencing severe pain in his back with radiation into both legs following the April 2016 accident;[8] he also reported episodes of urinary urgency and incontinence since that time. JX 39 at 6-7. Dr. Gaddis reviewed the lumbar MRI and opined it showed a congenitally small spinal canal and compression of the tip of the spine.

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an injury, and in September 2016, while being treated at Prime for a work-related hand laceration, he denied he had experienced leg pain, numbness, or tingling during the previous three months. JX 6 at 42-43; JX 26 at 3; *see* Decision and Order (D&O) at 4, 9, 21-23.

[4] Dr. Anu Vellanki is board-certified in internal medicine. JX 17 at 2 (transcript p. 60).

[5] Claimant testified he told Dr. Vellanki "all of his problems" were coming from his back based on his realization, following treatment on September 11, 2016, that he "had a back injury and it's not [his] legs." HT at 125.

[6] Claimant was hospitalized from October 16 through October 20, 2016, for an unrelated cellulitis condition, during which time he denied having back pain. JX 26 at 10-23. Claimant took short-term disability leave until November 12, 2016, for the cellulitis condition; when he was denied additional leave due to his lack of eligibility, he did not return to work with Employer or anywhere else. JX 25 at 1-2, 18.

[7] Dr. Kenneth Gaddis is a board-certified neurologist. JX 18 at 2 (transcript p. 8).

[8] Although there is no indication Claimant informed Dr. Gaddis of the September 2016 incident at home, he did report his daughter asked him to play basketball with her and he "found he could not run or even walk swiftly." JX 39 at 6.

Id. at 7. He diagnosed Claimant with bilateral lower extremity weakness with early symptoms of cauda equina syndrome,[9] a pre-existing condition he opined was aggravated by the April 2016 workplace injury. He referred Claimant to a neurosurgeon. *Id*. at 8.

Claimant was evaluated by Randi N. Rasberry, PA-C, a physician assistant in the neurosurgery department. JX 34 at 1. She noted no signs of cauda equina and stated his MRI revealed "no evidence" to support his continued complaints of urinary incontinence or rectal pain. She recommended Claimant follow up with his primary care physician for a pain management referral and to explore possible explanations for his symptoms. *Id*. at 2, 6.

Claimant returned to Dr. Gaddis on February 22, 2017, with continued complaints of pain starting in his lower back and radiating into the rectal area and legs, numbness in his feet and "intense muscle spasm in the lower back," severe pain with bowel movements, and occasional urinary urgency and decreased urinary flow. JX 39 at 11. Dr. Gaddis also noted Claimant was unable to walk without a cane. *Id*. He continued to opine Claimant's symptoms were caused by the spinal stenosis at the lower end of the thoracic spine as shown on the lumbar MRI, "clearly precipitated by the fall at work." *Id*. at 12. He recommended Claimant follow up with neurosurgery. *Id*. at 12-13.

Claimant was evaluated by neurosurgeon Dr. James Kalyvas[10] on June 12, 2017. JX 34 at 18. Claimant reported burning pain in his lower back with radiation into his rectum, along with numbness and tingling into his legs and difficulty urinating. *Id*. He stated his pain began with a fall at work and had been worsening since. *Id*. Dr. Kalyvas reviewed Claimant's thoracic spine MRI and diagnosed him with severe stenosis from facet arthropathy at T11-12. He stated the arthropathy caused compression of the conus medullaris and conus medullaris syndrome, resulting in severe axial back pain at the thoracolumbar junction, bilateral lower extremity paresthesia and numbness, paresthesia in

[9] Dr. Gaddis explained cauda equina syndrome is a "compression or injury" to the cauda equina, which "refers to the lower end of the spinal canal at the termination of the spinal cord." JX 18 at 3-4 (transcript pp. 12-13). He stated cauda equina syndrome is "most often" related to trauma, but he also opined Claimant's MRI showed a congenitally small spinal canal, which would be affected by even a minor bulge. JX 18 at 4-5 (transcript pp. 13, 19).

[10] Dr. James Kalyvas is a board-eligible neurosurgeon. JX 2 at 1 (transcript p. 4).

the saddle area, urinary retention, and trace weakness in the right foot. *Id*. He recommended fusion surgery, which he performed on August 1, 2018.[11] *Id*.; JX 34 at 32.

Claimant filed a claim for disability and medical benefits for the April 25, 2016 injury, arguing it aggravated his pre-existing degenerative spinal condition. While Employer conceded a workplace accident occurred on April 25, 2016, it argued any accident-related aggravation resolved shortly thereafter, and Claimant's current symptoms were caused by the intervening September 2016 accident at home with his daughter.

The ALJ issued a Decision and Order (D&O) on February 8, 2023. He found Claimant invoked the Section 20(a) presumption of compensability by showing he suffered from conus medullaris and cauda equina syndrome (i.e., a harm) and as several medical providers related the aggravation of this underlying pre-existing condition to the April 2016 workplace accident.[12] 33 U.S.C. §920(a); D&O at 18. But the ALJ found Employer successfully rebutted the presumption with neurosurgeon Dr. Anthony Ioppolo's medical opinion.[13] *Id*. at 20; *see* JX 28; JX 30 at 8 (transcript pp. 28-29). Upon weighing the evidence as a whole, the ALJ found Claimant did not meet his burden to prove he suffered a compensable work-related aggravation injury and, therefore, denied his claim. *Id*. at 24.

Claimant appeals, contending the ALJ erred in finding Employer successfully rebutted the Section 20(a) presumption. Claimant's Petition for Review and Memorandum in Support (Cl. PR) at 13. Additionally, Claimant argues the ALJ failed to properly weigh the medical evidence in finding he failed to establish a work-related aggravation injury. *Id*. at 14-16. Employer responds, urging affirmance.

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[11] Claimant's spinal surgery was significantly delayed due to unrelated congestive heart issues. JX 34 at 23-25.

[12] The ALJ found Drs. Vellanki, Gaddis, Kalyvas, and pain management physician Dr. Firas Hijazi, related the onset of Claimant's pain to the April 2016 workplace accident, and Claimant did not experience lumbar pain with bilateral radiation prior to that accident. D&O at 18; *see* JX 2 at 5 (transcript p. 18); JX 6 at 1-17; JX 10 at 1-8; JX 11; JX 16 at 10, 13, 16 (transcript pp. 38-40, 49, 50-51, 62-63); JX 17 at 10, 12-13 (transcript pp. 37-38, 45, 50); JX 18 at 4, 6, 8-9 (transcript pp. 14-15, 22, 30, 36); JX 35; JX 39 at 7.

[13] Dr. Anthony Ioppolo is a board-certified neurosurgeon. JX 29; JX 30 at 2 (transcript p. 5).

Section 20(a) Rebuttal

Claimant first contends the ALJ erred in finding Employer rebutted the Section 20(a) presumption with Dr. Ioppolo's medical report and testimony because Dr. Ioppolo did not "consider the whole surgical record or the testimony of [Claimant]'s co-employees," and his testimony is contradicted by the other physicians. Cl. PR at 13. Once a claimant invokes the Section 20(a) presumption, as here, the burden shifts to the employer to rebut the presumption by producing substantial evidence of the lack of a causal nexus. *Ortco Contractors, Inc. v. Charpentier*, 332 F.3d 283 (5th Cir.), *cert. denied*, 540 U.S. 1056 (2003); *Conoco, Inc. v. Director, OWCP*, 194 F.3d 684 (5th Cir. 1999). To be substantial, the evidence must consist of facts, not speculation, and must be "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Rainey v. Director, OWCP*, 517 F.3d 632, 637 (2d Cir. 2008) (quoting *Richardson v. Perales*, 402 U.S. 389, 401 (1971)); *see also Conoco*, 194 F.3d at 687-688.

Dr. Ioppolo reviewed Claimant's medical records and examined him on February 26, 2018, at Employer's request. JX 28 at 1-4. He opined Claimant's spinal condition was "chronic and longstanding and predated the [workplace] injury on 4/25/16." *Id*. at 4. Considering the "extended period of time" between the injury and the onset of Claimant's thoracolumbar radicular symptoms, Dr. Ioppolo concluded it was "difficult to draw a causal relationship" between the April 2016 workplace accident and Claimant's thoracolumbar radicular problems. *Id*. While Dr. Ioppolo opined it was possible the workplace accident aggravated the "significant stenosis" in Claimant's thoracic spine, he "would have expected a relatively sooner onset of the conus medullaris symptoms" if that were the case. *Id*. Ultimately, he concluded it was more likely the September 2016 incident at home aggravated his condition and precipitated the need for surgical intervention. JX 30 at 8-10 (transcript pp. 29, 32, 37).

The ALJ found Dr. Ioppolo's causation opinion unequivocal and, therefore, sufficiently specific and comprehensive to rebut the Section 20(a) presumption. D&O at 20; *see* JX 28 at 4. We agree.

Contrary to Claimant's assertions, the ALJ does not perform a full weighing of the evidence at the rebuttal stage of the Section 20(a) analysis. *Cline v. Huntington Ingalls, Inc. (Avondale Operations)*, 48 BRBS 5, 7 (2013). Rather, in order to rebut the Section 20(a) presumption for aggravation injury claims such as this one, the employer need only produce substantial evidence that the claimant's condition was not caused or aggravated by his employment. *Conoco*, 194 F.3d at 690; *Charpentier*, 332 F.3d at 288-290; *O'Kelley v. Dep't of the Army/NAF*, 34 BRBS 39, 41 (2000).

The United States Court of Appeals for the Fifth Circuit, within whose jurisdiction this claim arises, has held the substantial evidence standard is met when the employer "advance[s] evidence to throw factual doubt on the prima facie case." *Ceres Gulf, Inc. v. Director, OWCP [Plaisance]*, 683 F.3d 225, 231 (5th Cir. 2012); *see also Ramsay Scarlett & Co. v. Director, OWCP*, 806 F.3d 327, 332-333 (5th Cir. 2015); *Victorian v. Int'l-Matex Tank Terminals*, 52 BRBS 35, 41 (2018), *aff'd sub nom. Int'l Matex-Tank Terminals v. Director, OWCP*, 943 F.3d 278 (5th Cir. 2019); *Cline*, 48 BRBS at 7 (2013). Moreover, the employer need not prove another agency of causation to rebut the presumption. *O'Kelley*, 34 BRBS at 41. The testimony of a physician that no relationship exists between an injury and a claimant's employment, rendered to a reasonable degree of medical certainty, is sufficient. *Id.* (citing *Kier v. Bethlehem Steel Corp.*, 16 BRBS 128 (1984)).

As the ALJ found, Dr. Ioppolo unequivocally opined the aggravation of Claimant's pre-existing cauda equina and conus medullaris syndromes more likely than not occurred as a result of the September 2016 incident at home rather than the April 2016 workplace accident. JX 28 at 4; JX 30 at 8, 10 (transcript pp. 29, 37). This medical opinion "throw[s] factual doubt" on Claimant's prima facie case, and we affirm the ALJ's rebuttal finding as it is rational and supported by substantial evidence. *Plaisance*, 683 F.3d at 231; *Victorian*, 52 BRBS at 41; *O'Kelley*, 34 BRBS at 41.

Weighing

Once the presumption is rebutted, as here, it drops from the case and the ALJ must resolve the issue of causation based on the record evidence as a whole with the claimant bearing the burden of persuasion. *Bis Salamis, Inc. v. Director, OWCP [Meeks]*, 819 F.3d 116, 127 (5th Cir. 2016); *Plaisance*, 683 F.3d at 229, 232; *see generally Director, OWCP v. Greenwich Collieries*, 512 U.S. 267, 28 BRBS 43(CRT) (1994). Claimant argues all physicians other than Dr. Ioppolo agreed the September 2016 incident at home had "little or no effect" on Claimant's underlying injury, but rather the April 2016 workplace accident was the "sole aggravation" of Claimant's pre-existing condition. Cl. PR. at 14. He contends that "but for" the workplace incident in April 2016, he would not have suffered any symptoms related to his underlying condition and would have been able to continue in his employment.[14] *Id.* at 14-15.

[14] Although not fully developed in the body of his brief, Claimant summarily argues, in one sentence, that the ALJ failed to properly consider the testimony of his treating physicians. Cl. PR at 2. To the extent he is arguing treating physicians should be accorded greater weight than other medical opinions of record, we reject this premise. When there is conflicting medical evidence on the cause of a claimant's injury, as here, the ALJ has a duty and the discretion to weigh the evidence. *Powell v. Serv. Employees Int'l, Inc.*, 53

At the weighing stage of the Section 20(a) causation analysis, the ALJ has the authority and discretion to weigh, credit, and draw his own inferences from the evidence of record; he is not bound to accept the opinion or theory of any particular expert. *See Calbeck v. Strachan Shipping Co*., 306 F.2d 693, 695 (5th Cir. 1962), *cert. denied*, 372 U.S. 954 (1963); *Todd Shipyards Corp. v. Donovan,* 300 F.2d 741, 742 (5th Cir. 1962); *John W. McGrath Corp. v. Hughes*, 289 F.2d 403, 405 (2d Cir. 1961); *Perini Corp. v. Heyde,* 306 F. Supp. 1321, 1325 (D.R.I. 1969). In reviewing findings of fact, the Board may not reweigh the evidence, but may only inquire into the existence of substantial evidence to support the ALJ's findings. *Sea-Land Services, Inc., v. Director, OWCP* [*Ceasar*], 949 F.3d 921, 927 (5th Cir. 2020); *see Meeks*, 819 F.3d at 130 (the Board may not second-guess an ALJ's factual findings or disregard them merely because other inferences could have been drawn from the evidence). Nor will the Board interfere with credibility determinations unless they are "inherently incredible or patently unreasonable." *Cordero v. Triple A Mach. Shop*, 580 F.2d 1331, 1335 (9th Cir. 1978), *cert. denied*, 440 U.S. 911 (1979); *Calbeck*, 306 F.2d at 695; *Hughes*, 289 F.2d at 405.

Upon weighing the totality evidence, the ALJ found it demonstrates that Claimant experienced a "quick and full resolution" of temporary symptoms following the April 2016 workplace accident and then experienced "distinct changes that arose immediately after hurting himself while engaging in activities at home" in September 2016. *Id*. at 24. In doing so, he accorded significant probative weight to the opinions of Drs. Kalyvas and Ioppolo, but little weight to the opinions of Drs. Vellanki, Gaddis, and Firas Hijazi.[15] *Id*. at 21-23.

BRBS 13, 16 (2019); *Coffey v. Marine Terminals Corp.*, 34 BRBS 85, 87 (2000); *see also, e.g., Loza v. Apfel,* 219 F.3d 378, 395 (5th Cir. 2000) (while the opinion of a treating physician may be entitled to "considerable weight in determining disability," the "ALJ may give less weight to a treating physician's opinion when there is good cause shown to the contrary").

[15] The ALJ gave Dr. Vellanki's causation opinion little probative weight because he lacked expertise in the fields of neurosurgery and neurology, he provided testimony inconsistent with Claimant's medical records, he acknowledged Claimant did not report symptoms until months after the April 2016 workplace accident, and he conceded it was possible the September 2016 incident at home aggravated Claimant's spine condition. D&O at 21; *see* JX 17 at 2, 9-10, 13 (transcript pp. 6-7, 34, 36-37, 49); JX 26 at 7. In addition, the ALJ accorded Dr. Gaddis's opinion little probative weight because he did not review all relevant medical records and his opinion is based primarily on Claimant's subjective reporting. *Id*. at 22; *see* JX 18 at 10, 12, 14, 16 (transcript pp. 38-39, 46, 54, 61). Specifically, the ALJ found Claimant's "narrative" that he had "experienced constant

Specifically, he noted both Drs. Kalyvas and Ioppolo agreed Claimant's symptoms of leg pain and lower back pain would have presented "consistently earlier" if caused by the April 2016 workplace accident. *Id*. at 22-23; *see* JX 2 at 5-6 (transcript pp. 18, 23); JX 28 at 4; JX 30 at 4, 7-8, 10 (transcript pp. 11, 13, 25, 28-29, 37). He credited Dr. Kalyvas's testimony that leg pain, rather than back pain, is a better indicator of an "acute aggravation" of his underlying pre-existing condition and found this supported by the medical records, in which Claimant expressly denied radicular leg pain during the months following the April 2016 workplace accident and preceding the September 2016 incident at home. *Id*. at 22; *see* JX 2 at 8-9 (transcript pp. 32-33); JX 6 at 34-35, 42-43; JX 27 at 8.

Moreover, the ALJ found Dr. Ioppolo's conclusion – that the September 2016 incident at home, rather than the April 2016 workplace accident, was the more likely cause of the aggravation of Claimant's underlying conus medullaris and cauda equina syndromes – is supported by Claimant's "sudden onset of pain" in September 2016, his lack of symptoms associated with cauda equina and conus medullaris syndromes prior to September 2016,[16] and the improbability someone experiencing those symptoms would be able to engage in heavy duty labor as Claimant did from May to September 2016. *Id*. at 22-23; *see* HT 117, 126, 157, 163, 302, 320; JX 6 at 38; JX 7 at 1; JX 23; JX 26 at 3; JX

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leg and low back pain [following the workplace] accident" contradicted by the medical evidence of record and concluded Dr. Gaddis's testimony that symptoms of cauda equina syndrome can wax and wane insufficient to account for the "significant gap between [Claimant's] reports of symptoms." *Id*. at 21-22; *see* JX 18 at 9-10, 12 (transcript pp. 36-37, 45). Finally, the ALJ accorded Dr. Hijazi's causation opinion little weight because he found it was provided in response to a hypothetical where Claimant "purportedly experienced consistent pain and did not engage in heavy work, but only performed lesser tasks" following the April 2016 workplace incident, which the ALJ found contradicted by Claimant's own testimony. *Id*. at 22; *see* HT at 117, 201-202; JX 16 at 9-10 (transcript pp. 34-39). Claimant raises no specific contentions of error as to the ALJ's discrediting of the opinions of Drs. Vellanki, Gaddis, and Hijazi.

[16] Dr. Kalyvas and Dr. Gaddis testified the symptoms most commonly associated with conus medullaris syndrome and cauda equina syndrome include radicular leg pain with neurologic deficits, including loss of sensory or motor function and urinary or bowel dysfunction. JX 2 at 2, 9 (transcript pp. 8, 33); JX 18 at 4-5, 7 (transcript pp. 13-17, 25-28). Claimant's medical records, however, do not consistently document any radicular leg pain or numbness and urinary or bowel incontinence until after the September 2016 incident at home. Rather, they document Claimant's express denials of such symptoms prior to that time. *See* JX 6 at 43; JX 7 at 1-2, 4, 7, 11, 13-15, 17, 20; JX 26 at 7; JX 27 at 2, 11, 13; JX 34 at 1, 4, 10, 15, 18; JX 39 at 6-7, 11.

27; JX 28 at 4; JX 30 at 4, 6, 8, 10 (transcript pp. 11, 19, 29, 36-37); Impeachment Exhibit (IEX) 1 at 31-35.

The ALJ also found Claimant's testimony as to the nature of the work he performed after his workplace injury unsupported by the record evidence. D&O at 23. He found Claimant testified he performed less strenuous tasks but also testified he was trained to operate the Bobcat, a job he described as physically demanding. *Id*. at 5, 23; *see* HT at 107-111, 154-157, 201, 208, 215-216, 317, 339-340, 342; JX 5 at 2 (transcript p. 8); JX 23; JX 40 at 12 (transcript p. 48). Likewise, the ALJ found testimony from Claimant's supervisors and co-workers contradicted his claim that he regularly complained of pain at work and was helped in performing his duties. *Id*. at 4, 23; *see* HT at 104-105, 111-116, 161-163, 181 184, 320, 331; JX 3 at 5, 7 (transcript pp. 15, 22); JX 4 at 4-7 (transcript pp. 13-14, 24-25); JX 5 at 5-6 (transcript pp. 18, 21, 23); JX 7 at 7; JX 40 at 7-13 (transcript pp. 28, 30, 36-37, 42-44, 46-49).

As the ALJ's permissible credibility and factual determinations are rational, supported by substantial evidence, and in accordance with the law, we affirm his finding Claimant failed to prove his condition is work-related by a preponderance of the evidence. *Ceasar*, 949 F.3d at 927; *Meeks*, 819 F.3d at 130; *see also Cordero*, 580 F.2d at 1331.

Accordingly, we affirm the ALJ's Decision and Order denying benefits.

SO ORDERED.

DANIEL T. GRESH, Chief
Administrative Appeals Judge

JUDITH S. BOGGS
Administrative Appeals Judge

GREG J. BUZZARD
Administrative Appeals Judge