U.S. Department of Labor

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

BRB No. 22-0265

SAMI AJDINI	)	
	)	
Claimant-Petitioner	)	
	)	
v.	)	
	)	
FLUOR CONOPS, LTD.	)	
	)	DATE ISSUED: 9/12/2023
and	)	
	)	
INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA	)	
	)	
	)	
Employer/Carrier-Respondents	)	DECISION and ORDER

Appeal of the Decision and Order Denying Benefits of Theodore W. Annos, Administrative Law Judge, United States Department of Labor.

Phillip M. Davis (The Law Office of Phillip M. Davis), Dallas, Texas, for Claimant.

Lawrence P. Postol (Postol Law Firm, P.C.), McLean, Virginia, for Employer/Carrier.

Before: BOGGS, BUZZARD, and ROLFE, Administrative Appeals Judges.

PER CURIAM:

Claimant appeals Administrative Law Judge (ALJ) Theodore W. Annos's Decision and Order Denying Benefits (2019-LDA-00984) rendered on a claim filed pursuant to the Longshore and Harbor Workers' Compensation Act, as amended, 33 U.S.C. §901 *et seq.*

(Act), as extended by the Defense Base Act, 42 U.S.C. §1651 *et seq*. (DBA).[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).

Claimant, a resident of Ferizaj, Kosovo, initially went to work in Afghanistan in 2007 for KBR, as a food services worker at Camp Sharana. Hearing Transcript (HT) at 21, 25. After a few months, he applied for and obtained a different position with KBR, as a Morale, Welfare, and Recreation employee, cleaning the fitness center and escorting Afghan military personnel to and from the base's gate and the fitness center. *Id*. at 23, 27. In 2010, the camp's contract was taken over by Employer. Claimant was given the option to continue working in the same position or return home to Kosovo; he chose to stay in Afghanistan and work for Employer. *Id*. at 23-24. In 2013, he was transferred to Camp Eggers, where he worked for a few months until he voluntarily resigned and returned to Kosovo. *Id*. at 30, 33-34.

Claimant testified he resigned due to health problems, including dizziness, headaches, nightmares, sweating, and chest pains, which he stated started around 2008 or 2009, although his resignation form identifies the reason as "personal." HT at 33; Employer's Exhibit (EX) 13 at 4, 6-8. He further testified that upon his return to Kosovo he sought treatment for these health problems from a family doctor and public clinic, but they never provided him with any records of this treatment. *Id*. at 35. In January 2016, he began treating with psychiatrist Dr. Ramadan Halimi, who diagnosed him with post-traumatic stress disorder (PTSD) and took him off all work. HT at 41, 48; Claimant's Exhibit (CX) 5 at 122; CX 6 at 125. However, Claimant testified he did not understand the link between his PTSD diagnosis and his employment in Afghanistan until 2018, at which point he filed a claim for benefits under the Act. HT at 43; EX 2 at 3.

On February 9, 2020, at Employer's request, Claimant attended a second medical evaluation in Kosovo by psychiatrist Dr. Geoff Isaacs. EX 15 at 2. Dr. Isaacs issued a medical report on March 5, 2020. *Id*. at 1. Based on his interview of Claimant, *id*. at 4-9, as well as his review of medical records, *id*. at 2-4, Dr. Isaacs concluded Claimant did not suffer from PTSD or any psychological condition related to his employment in Afghanistan. *Id*. at 11.

On June 24, 2020, the ALJ issued a Notice of Telephonic Hearing and Pre-Hearing Order requiring, *inter alia*, that no later than 28 days prior to the hearing, which was scheduled for September 15, 2020, the parties disclose expert witnesses, exchange expert

[1] This case arises within the jurisdiction of the United States Court of Appeals for the Second Circuit because the district director who filed the ALJ's decision is in New York. 33 U.S.C. §921(c); *McDonald v. Aecom Tech. Corp.*, 45 BRBS 45 (2011).

reports, and make all other disclosures required under 29 C.F.R. §18.50(c)(2). ALJ Exhibit (ALJX) 2 at 5. With respect to expert witnesses, one such required disclosure is a "list of all other cases in which, during the previous 4 years, the witness testified as an expert at trial, at hearing, or by deposition." 29 C.F.R. §18.50(c)(2)(ii)(E).

At Dr. Isaacs's deposition on August 12, 2020, within the ALJ's deadline for expert disclosures, Employer provided Claimant with an email listing seven "court appearances where Dr. Isaacs has given evidence in his capacity as expert." EX 16 at 4; EX 18, Exh. E. However, the list did not identify the prior cases with any particularity, only an estimated date and the type of case it was.[2] *Id*. During deposition questioning, Claimant's counsel asked Dr. Isaacs about each entry and discovered Dr. Isaacs had not included at least two instances in which he was deposed as an expert. EX 18 at 47, 124-130. On August 25, 2020, Claimant filed objections seeking to exclude EX 15, Dr. Isaacs's medical report, and EX 16, Dr. Isaacs's CV, based on Employer's failure to timely comply with the ALJ's pre-hearing order regarding expert disclosures. In response, Employer provided an updated list of Dr. Isaacs's prior testimony as of August 21, 2020. EX 16 at 6.

A telephonic hearing took place on September 15, 2020, with an interpreter, and with Claimant participating remotely from Kosovo. HT at 1-2. At the hearing, the ALJ addressed Claimant's objections to admission of EXs 15 and 16, as well as additional objections to admission of EX 18, the transcript of Dr. Isaacs's deposition, and EX 19, the video recording of Dr. Isaacs's deposition, on the same grounds – Employer's failure to timely provide a list of Dr. Isaacs's prior testimony in accordance with the ALJ's Pre-Hearing Order. *Id*. at 7, 9-10. Noting differences between the originally submitted list of prior testimony (Exhibit E to EX 18, Dr. Isaacs's deposition) and the updated list subsequently provided (EX 16 at 6), the ALJ admitted the exhibits, but ordered Employer to provide a comprehensive and corrected list of Dr. Isaacs's prior expert testimony within 15 days, by September 30, 2020. HT at 11. He also granted Claimant's counsel an additional 30 days, until October 30, 2020, to depose Dr. Isaacs on the limited issue of his previous expert testimony. *Id*. Employer submitted a corrected and more comprehensive list of Dr. Isaacs's prior expert testimony on September 28, 2020 (*See* Employer's Dr. Isaac Testimony List and Motion for Adverse Inference as to Non-Produced Medical Records); however, the record lacks any indication Claimant attempted to depose Dr. Isaacs about that list.[3]

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[2] For example, the first item on the list read "September 2019 1 day Employment tribunal." EX 16 at 4; EX 18, Exh. E.

[3] Claimant also did not raise or revisit the admission of EXs 15, 16, 18, and 19 in his post-hearing brief, submitted to the ALJ on February 6, 2021.

The ALJ issued a Decision and Order Denying Benefits (D&O) on February 25, 2022. He found Claimant established a prima facie case of compensability under Section 20(a) of the Act, 33 U.S.C. §920(a), based on Dr. Halimi's diagnosis and Claimant's reported symptoms. D&O at 7-8. He further found Employer successfully rebutted the presumption through its expert Dr. Isaacs, who opined in his report and at his deposition that Claimant did not suffer from work-related PTSD. *Id*. at 9. The ALJ proceeded to weigh the evidence and found Claimant not credible due to significant discrepancies in his testimony, discovery responses, and reports to physicians. *Id*. at 10-12. He also credited Dr. Isaacs's medical opinion, which he found to be well-reasoned and well-documented, over that of Dr. Halimi, which he found to be inadequately explained and reliant on Claimant's statements. *Id*. at 12-20. The ALJ concluded the weight of the evidence failed to support a finding of a work-related injury and denied the claim for benefits.[4] *Id*. at 20-21.

Claimant appeals, arguing the ALJ erred in admitting into evidence EXs 15, 16, 18, and 19; finding he lacked credibility; assigning no weight to Dr. Halimi's medical reports; and failing to "consider the implications of Kosovar law upon the collection and introduction of evidence," particularly with respect to Dr. Isaacs's examination of Claimant, which took place in Kosovo. Claimant's Brief in Support of Petition for Review (Cl. PR Br.) at 18. Employer responds, urging affirmance.

Admission of Evidence

Claimant contends the ALJ erred in failing to exclude EXs 15, 16, 18, and 19, due to Employer's failure to timely provide a list of Dr. Isaacs's prior expert testimony in accordance with the ALJ's Pre-Hearing Order (ALJX 2) and the Rules of Practice and Procedure for Administrative Hearings before the Office of Administrative Law Judges (OALJ Rules). He asserts Employer's untimely disclosure "fatally impaired [his] ability to effectively rebut [Dr. Isaacs's] testimony through the retention of an expert and through further investigation of his prior testimony." Cl. PR Br. at 8. We disagree.

Section 23(a) of the Act, 33 U.S.C. §923(a), states the ALJ is not bound by common law or statutory rules of evidence or procedure but may conduct the hearing "in such

[4] The ALJ did not address two issues before him: the timeliness of Claimant's notice of injury pursuant to Section 12 of the Act, 33 U.S.C. §912, and the timeliness of his claim pursuant to Section 13, 33 U.S.C. §913. Instead, he noted he need not decide those issues because, even if the notice and claim were timely, Claimant did not establish a work-related injury. D&O at 20 n.100. As the ALJ found, his denial of the claim due to lack of compensability under Section 20(a), 33 U.S.C. §920(a), renders the issue of timeliness moot. *Ranks v. Bath Iron Works Corp.*, 22 BRBS 302, 306 n.5 (1989).

manner as to best ascertain the rights of the parties." *See also* 20 C.F.R. §702.339. Thus, the ALJ has great discretion concerning the admission of evidence, *Hughes v. Bethlehem Steel Corp.*, 17 BRBS 153, 155 n.1 (1985), and any decisions regarding the admission or exclusion of evidence are reversible only if arbitrary, capricious, an abuse of discretion, or not in accordance with law. *Irby v. Blackwater Security Consulting*, 44 BRBS 17 (2010); *Cooper v. Offshore Pipelines Int'l, Inc.*, 33 BRBS 46 (1999). Moreover, ALJs are permitted to exercise their discretion regarding the admissibility of evidence where the offering party does not comply with a pre-hearing order. *Picinich v. Seattle Stevedore Co.*, 19 BRBS 63, 64-65 (1986) (quoting *Williams v. Marine Terminals Corp.*, 14 BRBS 728, 733 (1981)); *see also G.K. [Kunihiro] v. Matson Terminals, Inc.*, 42 BRBS 15, 17 (2008), *aff'd sub nom. Director, OWCP v. Matson Terminals, Inc.*, 442 F. App'x 304 (9th Cir. 2011).

Although the ALJ admitted the exhibits in question over Claimant's objections, he took steps to remedy any deficiency by ordering Employer to provide an accurate and more detailed list of Dr. Isaacs's prior testimony and also by granting Claimant additional time post-hearing to depose Dr. Isaacs about Employer's production. Employer complied with the ALJ's order, submitting a more comprehensive and complete list of Dr. Isaacs's prior expert testimony within the deadline imposed by the ALJ. Claimant's counsel, however, chose not to depose Dr. Isaacs about this prior testimony. As a result, we affirm the ALJ's admission of EXs 15, 16, 18, and 19, because it was not arbitrary, capricious, or an abuse of discretion, and the evidence is relevant. *Irby*, 44 BRBS 17; *Cooper*, 33 BRBS 46.

Compensability under Section 20(a)

To be entitled to the Section 20(a) presumption linking his injuries to his employment, a claimant must sufficiently allege: 1) he has sustained a harm; and 2) an accident occurred or working conditions existed which could have caused or aggravated the harm. *Rose v. Vectrus Systems Corporation*, 56 BRBS 27 (2022) (Decision on Recon. en banc), *appeal dismissed* (M.D. Fla. Aug. 24, 2023); *see, e.g., American Stevedoring, Ltd. v. Marinelli*, 248 F.3d 54, 35 BRBS 41(CRT) (2d Cir. 2001); *O'Kelley v. Dep't of the Army/NAF*, 34 BRBS 39 (2000). If the Section 20(a) presumption is invoked, the burden shifts to the employer to produce substantial evidence that the claimant's condition was not caused or aggravated by his employment. *Rainey v. Director, OWCP*, 517 F.3d 632, 634, 42 BRBS 11, 12(CRT) (2d Cir. 2008); *Marinelli*, 248 F.3d at 64-65, 35 BRBS at 49(CRT). If the employer rebuts the Section 20(a) presumption, as here, it no longer controls and the issue of causation must be resolved on the evidence of record as a whole, with the claimant bearing the burden of persuasion by a preponderance of the evidence. *Rainey*, 517 F.3d at 634, 42 BRBS at 12(CRT); *Marinelli*, 248 F.3d at 65, 35 BRBS at 49(CRT); *see also Director, OWCP v. Greenwich Collieries*, 512 U.S. 267, 28 BRBS 43(CRT) (1994).

The ALJ has the authority and discretion to weigh the evidence, accepting any medical opinion in whole or in part. *Universal Maritime Corp. v. Moore*, 126 F.3d 256, 31 BRBS 119(CRT) (4th Cir. 1997); *Santoro v. Maher Terminals, Inc.*, 30 BRBS 171 (1996); *see also Todd Shipyards Corp. v. Donovan*, 300 F.2d 741 (5th Cir. 1962). The Board cannot re-weigh the evidence; rather, 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, 55 BRBS 27(CRT) (1st Cir. 2021), *cert. denied*, 142 S.Ct. 1110 (2022).

Claimant argues the ALJ erred in weighing the evidence as a whole because his determination that Claimant lacks credibility is erroneously based on misstatements and mischaracterizations of the evidence. Claimant maintains his inconsistent statements regarding social isolation can be explained by putting them into temporal context – he was socially isolated upon beginning treatment with Dr. Halimi in 2016, but through treatment had been able to enjoy more social interaction by the time he saw Dr. Isaacs in 2020. Cl. PR Br. at 9-10. Claimant further cites his own testimony acknowledging he could not remember the name of the local clinics and/or physicians he saw from 2013 until 2016 as an explanation for his failure to identify them in discovery responses. *Id*. at 11. Finally, he explains the discrepancies regarding his testimony and reports about exposure to missile attacks by differentiating between those occurring inside the base and outside the base – although there were no attacks inside the base when he was at Camp Eggers, the attacks continued outside the base. *Id*. at 12-13.

The ALJ is accorded broad discretion in making credibility determinations. *Sealand Terminals v. Gasparic*, 7 F.3d 321, 28 BRBS 7(CRT) (2d Cir. 1993); *Volpe v. Northeast Marine Terminals*, 671 F.2d 697, 14 BRBS 538 (2d Cir. 1982). Questions of witness credibility are for the ALJ as the trier-of-fact, and the Board must respect his evaluation of all testimony, including that of medical witnesses. *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 (2d Cir. 1961). The Board will not interfere with credibility determinations unless they are "inherently incredible or patently unreasonable." *Cordero v. Triple A Mach. Shop*, 580 F.2d 1331, 1335, 8 BRBS 744, 747 (9th Cir. 1978), *cert. denied*, 440 U.S. 911 (1979); *see generally Bis Salamis, Inc. v. Director, OWCP [Meeks]*, 819 F.3d 116, 130, 50 BRBS 29, 37(CRT) (5th Cir. 2016) (Board may not second-guess an ALJ's factual findings or disregard them merely because other inferences could have been drawn from the evidence).

After finding the presumption invoked and rebutted, the ALJ found Claimant lacked credibility based on several discrepancies in his testimony, discovery responses, and reports to physicians, beyond the three identified as errors by Claimant. He found Claimant testified and reported in his discovery responses that he began to suffer PTSD symptoms

while in Afghanistan between 2007 and 2013; however, at annual Employer-sponsored medical assessments, he indicated he was in good health and specifically denied the same symptoms. D&O at 10; *see* HT at 33, 41; EX 7 at 25; EXs 8-11. Claimant testified in his deposition he never told Employer about his health issues, but testified at the hearing he informed Employer his health was the reason for his resignation in 2013, despite indicating in his annual physical examination, which occurred about one month prior to his resignation, that he was in good health. *Id*.; *see* HT at 33-35, 69; EX 17 at 61; EX 11 at 18. The ALJ also found Claimant inconsistent as to whether Dr. Halimi provided him with copies of his records, as well as to when Dr. Halimi told him he was unable to work. *Id*.; *see* HT at 42-46, 48, 95-102; EX 17 at 25-28, 29. Finally, the ALJ found Claimant provided inconsistent descriptions of his exposure to injured people and dead bodies being removed from helicopters and transported to the medical facility on base. *Id*.; *see* HT at 26, 83-84; EX 17 at 43. Considering the broad discretion accorded ALJs in weighing credibility, *Gasparic*, 7 F.3d 321, 28 BRBS 7(CRT), and as the ALJ's determination as to Claimant's lack of credibility is supported by substantial evidence and neither "inherently incredible [n]or patently unreasonable," we affirm his finding. *Cordero*, 580 F.2d at 1335, 8 BRBS at 747(CRT); *see also Carswell*, 999 F.3d 18, 55 BRBS 27(CRT); *Calbeck*, 306 F.2d 693.

Claimant also maintains the ALJ erred in assigning more weight to Dr. Isaacs's medical opinion than that of Dr. Halimi. He points to Dr. Isaacs's not conducting psychological testing and inability to identify the DSM-V criteria for PTSD when asked; the fact that Dr. Isaacs's examination was conducted through an interpreter; and some off-topic statements made by Dr. Isaacs during his deposition. Cl. PR Br. at 14-15. Further, Claimant asserts the opinion of Dr. Halimi, as his treating physician, should be granted considerable weight, relying upon *Pietrunti v. Director, OWCP*, 119 F.3d 1035, 31 BRBS 84(CRT) (2d Cir. 1997), *Amos v. Director, OWCP*, 153 F.3d 1051 (9th Cir. 1998), *amended*, 164 F.3d 480, 32 BRBS 144(CRT) (9th Cir. 1999), *cert. denied*, 528 U.S. 809 (1999), and *Rivera v. Harris*, 623 F.2d 212, 216 (2d Cir. 1980).

Unlike *Pietrunti, Amos*, and *Rivera*,[5] this case involves conflicting medical opinions on the issue of causation. The ALJ permissibly and rationally weighed Dr. Isaacs's

[5] *Pietrunti, Amos*, and *Rivera* are distinguishable from the case before us in that the treating physicians' opinions on the issue of causation were uncontradicted or causation was not in dispute. In *Pietrunti*, the United States Court of Appeals for the Second Circuit vacated the ALJ's finding of insufficient credible evidence to support a causal link between the claimed psychological injury and the work-related arm injury, holding the ALJ impermissibly substituted his own judgment for that of the claimant's treating physician, whose opinion as to causation was uncontradicted. *Pietrunti*, 119 F.3d at 1044, 31 BRBS at 91(CRT). In *Amos*, the dispute on appeal involved the reasonableness and necessity of surgery to treat the work-related condition, not whether the condition itself was work-

causation opinion against the causation opinion of Claimant's treating physician, Dr. Halimi, and found Dr. Halimi's opinion less convincing, as it was neither well-documented nor well-reasoned. *See Calbeck*, 306 F.2d 693; *Donovan*, 300 F.2d 741; *Hughes*, 289 F.2d 403; *Perini Corp. v. Heyde*, 306 F. Supp. 1321 (D.R.I. 1969). He found Dr. Halimi's records often incomplete and cursory, and largely based on Claimant's subjective reporting. D&O at 15-16; *see* CX 5 at 122-124; CXs 6-29. He noted Dr. Halimi's records only documented exposure to potentially traumatic experiences for two disparate periods – from March to June 2007, and from July to August 2013 – but failed to explain how exposure during these time periods was sufficient to justify his diagnosis. *Id*. at 16; *see* CX 5 at 122-124. Finally, the ALJ concluded the absence of record evidence of Dr. Halimi's credentials precluded him from evaluating his qualifications and "further detract[ed] from the persuasiveness of his opinion." *Id*. at 17. As the ALJ's credibility determination with respect to the medical experts is rational and supported by substantial evidence, we affirm his findings. *Cordero*, 580 F.2d at 1335, 8 BRBS at 747(CRT); *see also Carswell*, 999 F.3d 18, 55 BRBS 27(CRT); *Calbeck*, 306 F.2d 693.

Foreign Blocking Statutes

Finally, Claimant seeks remand so the ALJ can "consider the implications of Kosovar law upon the collection and introduction of evidence in this case," specifically regarding Dr. Isaacs's examination of Claimant in Kosovo. For support, Claimant points to the Chief ALJ's Administrative Notice of October 5, 2021, advising litigants in cases involving foreign parties, witnesses, or evidence, to take note of foreign law as well as the Hague Convention on the Taking of Evidence Abroad in Civil and Commercial Matters.[6] Cl. PR Br. at 18. We reject Claimant's arguments.

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related. *Amos*, 153 F.3d at 1054, 32 BRBS at 147(CRT). The claimant's treating physician recommended surgery, but the employer's two experts recommended against surgery. *Id*., 153 F.3d at 1052-1053, 32 BRBS at 145-146(CRT). Because all the physicians' recommendations were valid and reasonable, the court held it was for the claimant and his doctor, not the employer or the ALJ, to decide how to proceed with his medical care. *Id*., 153 F.3d at 1054, 32 BRBS at 147(CRT). Finally, in *Rivera*, a Social Security Disability benefits claim, the issue in dispute was whether the claimant was able to work; as the treating physicians' opinions failed to show she could not work, the Second Circuit affirmed the denial of benefits. *Rivera*, 623 F.2d at 216.

[6] According to Claimant, Kosovo is not a signatory to this Hague Convention. Cl. PR Br. at 18 (citing The United States Department of State, *Kosovo Judicial Assistance Information*, TRAVEL.STATE.GOV, https://travel.state.gov/content/travel/en/legal/Judicial-Assistance-Country-Information/kosovo.html (last updated Nov. 20, 2018)).

Under the OALJ Rules, a claimant has 14 days to object to an employer's notice of physical examination. 29 C.F.R. §18.62(1)(4). Moreover, if a claimant does object to an examination by the employer's physician, Board precedent outlines the legal framework to be applied: the employer has the burden to show a refusal to submit would be unreasonable, whereupon the burden shifts to the claimant to show the refusal would be justified. *Malone v. Int'l Terminal Operating Co., Inc.*, 29 BRBS 100 (1995); *Hrycyk v. Bath Iron Works Corp.*, 11 BRBS 238 (1979). However, in this case, Claimant submitted to Dr. Isaacs's examination without objection; in particular, there is no evidence Claimant objected to Dr. Isaacs's examination on the grounds that it potentially violated Kosovar law at any point before or after it occurred, until his Notice of Appeal. By appearing for and submitting to Dr. Isaacs's examination and failing to object to that examination prior to this appeal, Claimant waived his objection. *Sylejmani v. Fluor ConOps, Ltd.*, 57 BRBS 25 (2023).

Moreover, like the claimant in *Sylejmani*, Claimant in this case fails to identify a Kosovar law or statute prohibiting Dr. Isaac from examining Claimant in Kosovo. Rather, Claimant "of his own volition" sought benefits under U.S. law:

> In doing so, he agreed to have his claim adjudicated in accordance with the DBA, its accompanying regulations, and the general rules, procedures, and practices encountered in the American administrative benefits process [which] involves providing all parties an opportunity to be heard in a meaningful manner and at a meaningful time[.]

Id. at 30 (citing *Mathews v. Eldridge*, 424 U.S. 319, 349 (1976)).

In this case, Claimant placed his own psychological condition into controversy by alleging employment-related PTSD and seeking benefits under U.S. law for this condition. Notably, his claim included reimbursement for medical treatment, also obtained in Kosovo, from a physician of his choosing. Like the claimant in *Sylejmani*, it is "disingenuous" for Claimant to rely on a diagnosis from his own doctor, whom he saw in Kosovo, as a basis for entitlement to benefits under U.S. law; voluntarily attend the Employer's second medical opinion evaluation in Kosovo; "have his claim fully adjudicated by the ALJ"; and then "call foul…pursuant to an unidentified law" after his claim was denied. *Id*. at slip op. 11. Like *Sylejmani*, Claimant has failed to persuade us "Kosovar law prohibits the consideration of [Dr. Isaacs's already provided medical report], particularly since no Kosovar law has been cited and no U.S. court or tribunal ordered Claimant" to attend Dr. Isaacs's examination. *Id*.

Accordingly, we affirm the ALJ's Decision and Order Denying Benefits in its entirety.

SO ORDERED.

JUDITH S. BOGGS
Administrative Appeals Judge

GREG J. BUZZARD
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge