

K.E.)	
)	
Claimant-Petitioner)	
)	
v.)	
)	
CANINE ASSOCIATES)	DATE ISSUED: 02/29/2008
INTERNATIONAL)	
)	
and)	
)	
ACE AMERICAN INSURANCE)	
COMPANY)	
)	
Employer/Carrier-)	
Respondents)	DECISION and ORDER

Appeal of the Decision of John M. Vittone, Chief Administrative Law Judge, United States Department of Labor.

David M. Linker (Freedman and Lorry, P.C.), Cherry Hill, New Jersey, for claimant.

Scott R. Hymel (Montgomery, Barnett, Brown, Read, Hammond & Mintz), New York, New York, for employer/carrier.

Before: SMITH, McGRANERY and BOGGS, Administrative Appeals Judges.

PER CURIAM:

Claimant appeals the Decision (2007-LDA-9) of Chief Administrative Law Judge John M. Vittone rendered on a claim filed pursuant to the provisions of the Longshore and Harbor Workers' Compensation Act, as amended, 33 U.S.C. §901 *et seq.*, as extended by the Defense Base Act, 42 U.S.C. §1651 *et seq.* (the Act). We must affirm the administrative law judge's findings of fact and conclusions of law if they are supported by substantial evidence, are rational, and are in accordance with law. 33

U.S.C. §921(b)(3); *O’Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

In February 2005, claimant commenced employment with employer in Iraq as an explosive detection canine handler. Claimant’s employment duties included, *inter alia*, the examination of vehicles and buildings for hidden explosives. Upon the completion of employer’s contract in August 2005, claimant was transferred to Afghanistan, where he was assigned to the Kandahar Airbase. On January 22, 2006, claimant, following the issuance of a written warning by employer concerning claimant’s violation of employer’s alcohol policy for its employees stationed in Afghanistan, sent an e-mail to employer resigning his position. In February 2006, claimant returned to the United States where he subsequently sought similar employment as a canine handler, including reinstatement to his previous position with employer. On August 8, 2006, claimant filed a claim under the Act seeking benefits based upon an alleged diagnosis of post-traumatic stress disorder. JX A.

In his Decision, the administrative law judge found that claimant failed to establish that he suffers from post-traumatic stress disorder, and he consequently denied claimant’s claim for disability and medical benefits under the Act.

On appeal, claimant contends that the administrative law judge erred in denying his claim for benefits arising out of his alleged post-traumatic stress disorder. Employer responds, urging affirmance of the administrative law judge’s decision in its entirety.

Claimant challenges the administrative law judge’s findings regarding his alleged post-traumatic stress disorder. Specifically, claimant avers that he has presented evidence sufficient to establish that he presently suffers from post-traumatic stress disorder and that, consequently, he is entitled to the presumption found at Section 20(a) of the Act, 33 U.S.C. §920(a). It is well-established that claimant bears the burden of proving the existence of an injury or harm and that a work-related accident occurred or that working conditions existed which could have caused or aggravated that harm, in order to establish his *prima facie* case. *See U.S. Industries/Federal Sheet Metal, Inc. v. Director, OWCP*, 455 U.S. 608, 14 BRBS 631 (1982); *Jones v. Aluminum Co. of America*, 35 BRBS 37 (2001); *Bolden v. G.A.T.X. Terminals Corp.*, 30 BRBS 71 (1996). It is claimant’s burden to establish each element of his *prima facie* case. *See O’Kelley v. Dept. of the Army/NAF*, 34 BRBS 39 (2000); *see also Director, OWCP v. Greenwich Collieries*, 512 U.S. 267, 28 BRBS 43(CRT) (1994). Once claimant has established his *prima facie* case, he is entitled to invocation of the Section 20(a) presumption linking his harm to his employment. *See O’Kelley*, 34 BRBS 39; *Merrill v. Todd Pacific Shipyards Corp.*, 25 BRBS 140 (1991).

In the instant case, the administrative law judge relied upon the opinions of Drs. Brasted and Grimm to determine that claimant failed to demonstrate that he suffers from post-traumatic stress disorder. Based upon a review of claimant’s post-employment medical records with Drs. Grimm and Chandra, as well as claimant’s deposition

transcript, Dr. Bradsted opined that claimant's testing suggested that claimant is exaggerating his symptoms and that his presentation is inconsistent with the specific criteria necessary to diagnosis post-traumatic stress disorder.¹ JX L. Dr. Grimm similarly opined that while claimant exhibited some symptoms of stress, claimant did not have a full-blown post-traumatic stress disorder.² JX C. In contrast, the administrative law judge found that Dr. Chandra, who opined that claimant suffers from a post-traumatic stress disorder, did not provide the evaluation criteria upon which he relied in making his diagnosis, JX I, that Dr. Rozner's medical records do not address a post-traumatic stress disorder diagnosis, JX M, and that claimant's inconsistent statements regarding his employment duties with employer affected his credibility and raised doubts about his statements concerning his mental health upon returning to the United States. Decision and Order at 15.

It is well-established that, in arriving at his decision, the administrative law judge is entitled to evaluate the credibility of all witnesses and to draw his own inferences and conclusions from the evidence. *See Calbeck v. Strachan Shipping Co.*, 306 F.2d 693 (5th Cir. 1962), *cert. denied*, 373 U.S. 954 (1963); *Todd Shipyards Corp. v. Donovan*, 300 F.2d 741 (5th Cir. 1962); *John W. McGrath Corp. v. Hughes*, 289 F.2d 403 (2^d Cir. 1961). Thus, the administrative law judge's credibility determinations are not to be disturbed unless they are inherently incredible or patently unreasonable. *Cordero v. Triple A Machine Shop*, 580 F.2d 1331, 8 BRBS 744 (9th Cir. 1978), *cert. denied*, 440 U.S. 911 (1979); *see Bolden*, 30 BRBS 71. In the instant case, the administrative law judge rationally weighed the medical opinions and evaluated claimant's credibility. As it is supported by substantial evidence, we affirm the administrative law judge's determination that claimant failed to establish that he suffers from post-traumatic stress disorder and the consequent denial of claimant's claim for benefits under the Act.

¹ Claimant testified that he experiences, *inter alia*, irritability, difficulty sleeping, weight loss, flash-backs, and nightmares. Tr. 14, 44-48, 64.

² In rendering their respective opinions, both Drs. Bradsted and Grimm stated that it was unusual for an individual asserting that he suffers from a post-traumatic stress disorder to seek a return to the area where the trauma allegedly occurred. JXs C, L.

Accordingly, the administrative law judge's Decision is affirmed.
SO ORDERED.

ROY P. SMITH
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge

JUDITH S. BOGGS
Administrative Appeals Judge