IN THE SUPREME COURT OF THE STATE OF HAWAIʻI

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BRUCE K. NAKAMURA, Respondent-Appellant,

vs.

STATE OF HAWAIʻI, UNIVERSITY OF HAWAIʻI,
Petitioner-Appellee, Self-Insured.

NO. 21978

CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS
(CASE NO. AB 96-736 (2-95-415530))

MAY 23, 2002

MOON, C.J., LEVINSON, AND NAKAYAMA, JJ.
AND ACOBA, J., CONCURRING IN PART AND
DISSENTING IN PART, WITH WHOM RAMIL, J., JOINS

OPINION OF THE COURT BY MOON, C.J.

Petitioner-appellee State of Hawaiʻi, University of Hawaiʻi (UH), timely petitioned this court for a writ of certiorari to review the memorandum opinion of the Intermediate Court of Appeals (ICA), vacating a decision of the Labor and Industrial Relations Appeals Board (Board) that respondent-appellant Bruce K. Nakamura was not entitled to compensation for an alleged stress-related workplace injury. See Nakamura v. University of Hawaiʻi, No. 21978 (Haw. Ct. App. Sept. 26, 2000)

(mem.) [hereinafter, ICA opinion]. In its application for a writ of certiorari, UH asserts that the ICA misinterpreted the nature of the evidence necessary to rebut a claim of compensability. We agree. Therefore, we reverse the decision of the ICA and affirm the Board's decision of non-compensability.

I. BACKGROUND[1]

Nakamura was hired by UH to work as a painter's helper in April 1992. Nakamura initially worked on a crew supervised by Danny Chung. Nakamura apparently had trouble working under Chung and felt he was treated unfairly and discriminated against when he received an unsatisfactory job evaluation and his probation was extended. At his request, Nakamura was transferred to another work crew, supervised by Ron Yoshioka, sometime in 1993. Nakamura also had difficulties while working under Yoshioka. Nakamura complained that Yoshioka frequently swore and yelled at him, threatened him with bodily harm, taunted and berated him, and, at one time, threatened to shoot him. In or around May 1995, Nakamura was transferred to another supervisor, Henry Sakai.

[1] The background facts are taken from the Board's findings of fact and from the record, which included, inter alia, notes of testimony in an administrative hearing before the Department of Labor and Industrial Relations [hereinafter, Director] and a transcript of testimony before the Board. The background facts are not disputed.

Nakamura did not have any problems working under Sakai between May 1995 and September 15, 1995. However, sometime during that period, Nakamura had an unpleasant encounter with Yoshioka, during which Nakamura alleges Yoshioka threatened him. According to other UH employees who testified before the Director and the Board, Yoshioka apparently did, in fact, swear and threaten others, although the other witnesses denied any knowledge of Yoshioka threatening to shoot anyone. Sakai also testified that Yoshioka had assaulted him in the mid-1980s and that management had not followed up on his oral complaint over the incident. Also, at least one coworker testified that Nakamura would "do something else" when he was supposed to be working.

On September 15, 1995, when Nakamura collected his paycheck, he noticed that the amount of his net pay had been reduced to approximately $185, significantly less than he previously received. Although the record does not disclose Nakamura's usual net pay, his average gross salary was apparently $1,121.50 for the same time period. The reduction in Nakamura's net pay was attributable to an Internal Revenue Service (IRS) garnishment of his wages for underpayment of his federal income tax for the years 1985 through 1988. Nakamura left work and apparently has not returned.

Three days later, on September 18, 1995, Nakamura informed UH that he sustained a psychiatric stress injury at work on September 15, 1995, due to "long term inhumane treatment" and harassment by management. He claimed that UH's participation in the garnishment of his wages was the "straw that broke the camel's back." On September 20, Nakamura went to see his physician because he was "getting stressed out and depressed since September 15" when UH participated in the garnishment of his paycheck. He complained of fatigue, irritability, and feeling like he wanted to shoot people. He was referred the same day for emergency consultation with Annette Shimizu, Ph.D. (Dr. Shimizu), to whom he apparently described the source of his stress as "garnishing of check without approval causing stress and depression." At a subsequent appointment with Dr. Shimizu on September 28, 1995, Nakamura spoke with "pressured speech" and "related [a] detailed [history] of being treated inappropriately" at his UH job and at a former job with the federal government. Nakamura also expressed his belief that the federal government had a "conspiracy" against him. Dr. Shimizu continued to see Nakamura regularly for at least the next year or so during which period Nakamura discussed his belief that he had been harassed at work prior to September 15.

UH denied liability for Nakamura's psychological stress injury and requested a hearing with the Director to determine

whether Nakamura's claim was compensable. On January 5, 1996, Nakamura was seen by Danilo Ponce, M.D. (Dr. Ponce), a psychiatrist, for an independent medical evaluation requested by UH. Dr. Ponce's report addressed several specific questions asked by the Personnel Management Office at UH. These included: (1) Dr. Ponce's diagnostic impression; (2) whether Nakamura had a pre-existing condition and, if so, the extent to which that condition contributed to his current condition; (3) whether the current condition had stabilized; (4) whether Nakamura could return to work; and (5) whether (and what, if any,) further treatment would improve Nakamura's current condition.

At the examination, Nakamura explained his belief that he had been abused, threatened, and "set up to be criticized" since the beginning of his employment with UH and that UH's collusion in the garnishment of his paycheck was the "last straw" that precipitated his injury. Nakamura stated that he was not willing to return to work unless his wages were no longer garnished and he was assigned to work elsewhere. Dr. Ponce's report also noted that Nakamura "rant[ed] and rave[d]" that the IRS could not constitutionally garnish his wages without his permission and expressed anger at UH for colluding with the IRS by participating in the garnishment. Dr. Ponce further noted that Nakamura described delusions involving the United States military using "harp vibrational technology" to control minds.

Based on a review of previous medical records, the history he obtained from Nakamura, and Dr. Ponce's own observation of Nakamura's mental status, Dr. Ponce concluded that Nakamura's diagnosis was paranoid schizophrenia, with inter-episode residual symptoms. Dr. Ponce noted that Nakamura had paranoid symptoms in 1988 while employed at Hickam Air Force Base for which he received treatment with antipsychotic medication until 1989. Dr. Ponce opined that Nakamura's pre-existing condition did not remit entirely, noting that Nakamura's complaints against his supervisors at UH were similar to work-related problems he had exhibited during his earlier employment with the federal government and that Nakamura's pre-existing condition was exacerbated by the garnishment of his wages by the IRS.[2] Dr. Ponce further recommended that, before Nakamura could return to work, he should receive antipsychotic medication and therapy to address his ongoing paranoia and hostility. Dr. Ponce did not expressly state that the exacerbation of Nakamura's illness was unrelated to Nakamura's relationship with his UH supervisors prior to the garnishment of his wages.

Prior to the hearing held by the Director, Nakamura filed a "harassment" complaint with UH Campus Security on May 31,

[2] Dr. Ponce wrote that Nakamura's "complaints against the foreman at [UH] were repeats of the troubles he got into at Pearl Harbor Shipyard as well as Hickam Air Force Base and Bellows. He mentions the same pattern of abuse, verbal threats, and being 'set up.'"

1996, approximately eight months after the garnishment of his wages, alleging various incidents of harassment had occurred at work during the 1992-95 period prior to the time of his wage garnishment. An internal UH investigation, which consisted of interviews of individuals who purportedly witnessed or participated in the harassment, concluded that Nakamura's specific allegations -- including Nakamura's allegations that he was threatened with bodily injury -- were unsubstantiated.[3]

The Director held a hearing on October 30, 1996 and denied Nakamura's claim for compensation on November 25, 1996. Nakamura appealed to the Board, which set trial for March 13, 1998.

At the trial, Dr. Shimizu agreed that Nakamura had some type of pre-existing psychiatric illness that was exacerbated by the IRS garnishment, but also testified that she believed that the UH work environment contributed to Nakamura's inability to work. She disagreed with Dr. Ponce's assessment that Nakamura had continuing psychotic symptoms. She acknowledged that Nakamura had been able to work until the garnishment occurred on September 15, 1995.

[3] The report did note, however, that one person acknowledged yelling and swearing at Nakamura "a couple of times" over Nakamura's use of the telephone during work hours, incidents not identified by Nakamura as examples of harassment.

The Board concluded that the IRS garnishment was the event that triggered Nakamura's inability to work. The Board acknowledged Nakamura's relationships with his former foremen but noted that he had been able to work until September 15, 1995 and did not seek treatment for stress prior to that time. The Board credited the testimony of Drs. Ponce and Shimizu as establishing that Nakamura had some type of pre-existing illness and found, based on Dr. Ponce's report, that the pre-existing psychotic illness did not remit entirely. The Board also found that the pre-existing illness, Dr. Shimizu's initial workers' compensation reports that described the injury as related to the garnishment, and Nakamura's own statement that the garnishment was the "last straw" supported the finding that the IRS garnishment was the event that triggered Nakamura's injury. Consequently, the Board also concluded that Nakamura did not sustain an injury arising out of and in the course of his employment. Nakamura timely appealed.

On appeal, assigned to the ICA, Nakamura effectively argued that Dr. Shimizu was more credible than Dr. Ponce and that UH caused his injury by illegally garnishing his wages. As previously stated, the ICA vacated the Board's decision.

The ICA reasoned that, although Nakamura had a pre-existing illness, under Akamine v. Hawaiian Packing and Crating Co., Ltd., 53 Haw. 406, 495 P.2d 1164, reh'g denied, 53 Haw. 592,

495 P.2d 1164 (1972), a "generalized medical opinion concerning the cause of an injury does not constitute sufficient 'substantial evidence' to rebut" the presumption present in Hawai'i workers' compensation law that a claimed injury is compensable. ICA opinion at 27. The ICA concluded that, because Dr. Ponce's report failed to expressly address whether Nakamura's purported pre-garnishment work environment in any way caused his injury, substantial evidence necessary to rebut the presumption of compensability was lacking. ICA opinion at 28-29. Relying on Chung v. Animal Clinic, Inc., 63 Haw. 642, 652, 636 P.2d 721, 727 (1981), the ICA further noted that Dr. Shimizu had opined that work stress occurring before the IRS garnishment contributed to Nakamura's post-garnishment inability to work, concluding that, "in cases where the testimony of two doctors directly conflict on the issue of an injury's causal connection to the claimant's employment activity, the legislature has determined that the conflict should be resolved in the claimant's favor." ICA opinion at 29. We granted certiorari to review the ICA's opinion.

II. STANDARD OF REVIEW

> Appellate review of the [Board's] decision is governed by Hawai'i Revised Statutes (HRS) § 91-14(g) (1993), which provides:

> Upon review of the record the court may affirm the decision of the agency or remand the case with instructions for further proceedings; or it may reverse or modify the decision and order if the substantial rights of the petitioners may have been prejudiced because the administrative findings, conclusions, decisions, or orders are:
>
> > (1) In violation of constitutional or statutory provisions; or
> > (2) In excess of the statutory authority or jurisdiction of the agency; or
> > (3) Made upon unlawful procedure; or
> > (4) Affected by other error of law; or
> > (5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
> > (6) Arbitrary, or capricious, or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

HRS § 91-14(g). "Under HRS § 91-14(g), [COLs] are reviewable under subsections (1), (2), and (4); questions regarding procedural defects are reviewable under subsection (3); [FOFs] are reviewable under subsection (5); and an agency's exercise of discretion is reviewable under subsection (6)."

> Moreover, we have observed that:
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> > [a]ppeals taken from [FOFs] set forth in decisions of the [Board] are reviewed under the clearly erroneous standard. Thus, the court considers whether such a finding is [c]learly erroneous in view of the reliable, probative, and substantial evidence on the whole record[.] The clearly erroneous standard requires the court to sustain the [Board's] findings unless the court is left with a firm and definite conviction that a mistake has been made.
> >
> > A [COL] . . . is not binding on an appellate court and is freely reviewable for its correctness. Thus, the court reviews [COLs] de novo, under the right/wrong standard.

Korsak v. Hawai'i Permanente Medical Group, Inc., 94 Hawai'i 297, 302-03, 12 P.3d 1238, 1243-44 (2000) (citations omitted) (some brackets in original).

To the extent that the Board's decisions involve mixed questions of fact and law, they are reviewed under the clearly

erroneous standard "because the conclusion is dependent upon the facts and circumstances of the particular case." Poe v. Hawai'i Labor Relations Bd., 87 Hawai'i 191, 195, 953 P.2d 569, 573 (1998) (internal quotation marks and citations omitted).

III. DISCUSSION

UH contends that Nakamura's inability to work was created by the IRS garnishment of his wages and, as such, is not compensable because the garnishment was not an incident of employment. See Tate v. GTE Hawaiian Telephone Co., 77 Hawai'i 100, 103-04, 881 P.2d 1246, 1249-50 (1994). The garnishment clearly was not an incident of employment; thus, the ICA framed the issue as whether Nakamura's pre-garnishment employment conditions contributed in any way to his post-garnishment inability to work.[4]

When determining whether a claim is work-related, HRS § 386-85(1) (1993) states that "it shall be presumed, in the absence of substantial evidence to the contrary . . . [t]hat the claim is for a covered work injury . . . ." (Emphasis added.) In order to overcome the presumption of work-relatedness, the employer bears the initial burden of "going forward" with the

[4] The record supports the conclusion that UH's participation in the garnishment of Nakamura's wages was legal and, in fact, was required by federal law. The record contains a notice of levy, which UH received from the IRS, and 26 U.S.C. § 6331 requires UH to comply with the notice. See also Sims v. United States, 359 U.S. 108 (1959) (state official personally liable to United States for refusing to comply with IRS notice of levy).

evidence and the burden of persuasion. See Acoustic, Insulation & Drywall, Inc. v. Labor and Indus. Relations Appeals Bd., 51 Haw. 312, 316, 459 P.2d 541, 544 (1969). In other words, the employer must initially introduce substantial evidence that, if true, could rebut the presumption that the injury is work-related. See Acoustic, 51 Haw. at 316-17, 459 P.2d at 544. In the workers' compensation context, the term "substantial evidence" "signifies a high quantum of evidence which, at the minimum, must be 'relevant and credible evidence of a quality and quantity sufficient to justify a conclusion by a reasonable [person] that an injury or death is not work connected.'" Flor v. Holguin, 94 Hawai'i 70, 79, 9 P.3d 382, 391 (2000) (internal citations omitted). Once the trier of fact determines that the employer has adduced substantial evidence that could overcome the presumption, it must then weigh that evidence against the evidence presented by the claimant. See Acoustic, 51 Haw. at 316-17, 459 P.2d at 544; see also Igawa v. Koa House Restaurant, 97 Hawai'i 402, 409, 38 P.3d 570, 577, reconsideration denied, 97 Hawai'i 402, 38 P.3d 570 (2001). In so doing, the employer bears the burden of persuasion in which the claimant is given the benefit of the doubt. See Akamine v. Hawaiian Packing & Crating Co., 53 Haw. 406, 409, 495 P.2d 1164, 1166 (1972).

> It is well established that
>
> courts decline to consider the weight of the evidence to ascertain whether it weighs in favor of the administrative findings, or to review the agency's findings of fact by passing upon the credibility of witnesses or conflicts in testimony, especially the findings of an expert agency dealing with a specialized field.

Igawa, 97 Hawai'i at 409-10, 38 P.2d at 577-78 (quoting In re Application of Hawaiian Elec. Co., Inc., 81 Hawai'i 459, 465, 918 P.2d 561, 567 (1996)).

In this case, UH bore the initial burden of providing substantial evidence to rebut the presumption that Nakamura's pre-garnishment work conditions did not contribute to his post-garnishment inability to work. The evidence suggested that Nakamura had worked for over three years without seeking medical treatment for stress or without missing work due to stressful work conditions. Moreover, even if Yoshioka's behavior had contributed to some workplace stress, Nakamura did not have any problems working under Sakai, his last foreman, for the four months preceding the garnishment. Furthermore, Dr. Ponce opined that Nakamura's inability to work was due to the IRS garnishment. Dr. Ponce further opined that Nakamura's pre-garnishment employment difficulties were due to his pre-existing illness because the pattern of Nakamura's behaviors at UH was similar to those he exhibited during his earlier federal employment when he also exhibited paranoid symptoms. Dr. Ponce's report also illustrated that Nakamura's hostility, anger, and resentment --

to which he ascribed Nakamura's inability to work -- was closely correlated with the IRS garnishment. Nakamura's contemporaneous initial statements to both his physician and Dr. Shimizu identified the garnishment as the source of his stress. Finally, although not specifically articulated by the Board, it appears obvious that a reasonable trier of fact could conclude from the sheer magnitude of the garnishment itself (leaving Nakamura with $185 out of gross pay of over $1,100) that such a garnishment would create psychological stress to which Nakamura's post-garnishment absence from work could be wholly attributed. Considered together, the foregoing constitutes substantial evidence that, if accepted by the trier of fact, is sufficient to rebut the presumption that Nakamura's inability to work after the date of the garnishment was related to his pre-garnishment employment conditions.

The ICA reasoned that Dr. Ponce's opinion concerning Nakamura's pre-existing condition was a "generalized medical opinion" akin to the medical testimony in Akamine that this court deemed insufficient to rebut the presumption of work-relatedness. In Akamine, the claimant died of an apparent heart attack while working at his job, which involved unloading, stacking, and "handtrucking" fifteen to twenty pounds of cargo from container trucks. Akamine, 53 Haw. at 415, 495 P.2d at 1165. In support of the employer's denial of the claim, one of the employer's

medical experts testified that there was no connection between the claimant's death and the exertion required by his employment, relying heavily on the fact that heart disease originates early in life and that, therefore, the claimant's pre-existing condition was the sole cause of his heart attack and death. Id. at 410-11, 495 P.2d at 1167. This court reasoned that such "generalized" medical testimony was insufficient to rebut the presumption of work-relatedness and commented that "[t]he primary focus of the medical testimony should have been a discussion [of] whether the employment effort . . . in any way aggravated" the claimant's heart condition that caused his death. Id. at 410-12, 495 P.2d at 1167-68. Given the context of the foregoing statement, it is apparent the court was intending to illustrate that a reasonable degree of specificity is required in order for medical opinion evidence to rebut the presumption of compensability.

Nakamura's case is distinguishable from Akamine because Dr. Ponce did more than opine generally that Nakamura had an illness predating his employment with UH. Dr. Ponce identified symptoms of paranoia and accompanying behaviors attributable to Nakamura's pre-existing illness as the source of Nakamura's pre-garnishment work-related difficulties, pointing out that the behaviors were similar to difficulties that Nakamura had encountered before starting work at UH. Moreover, the paranoid

thinking expressed by Nakamura during the examination with Dr. Ponce was consistent with the foregoing observation. Consequently, the evidence in support of the Board's decision was more than a mere "generalized medical opinion" concerning Nakamura's pre-existing condition.

The ICA also concluded that substantial evidence to rebut the presumption of compensability was lacking because Dr. Ponce failed to expressly write in his report that there was no connection between Nakamura's pre-garnishment work environment and Nakamura's post-garnishment inability to work. The fact that Dr. Ponce did not state formulaically that "there is no connection between Nakamura's pre-garnishment work environment and his post-garnishment injury" is not dispositive of the issue. Indeed, it would be ideal if expert medical reports and testimony utilized language that mimics the precise legal question before the Board. However, even in the absence of such language, the Board is free to draw all reasonable inferences based on the totality of the evidence presented, as long as that evidence is substantial. In our view, Dr. Ponce's opinion was specific enough to support the Board's conclusion.

In Korsak v. Hawai'i Permanente Medical Group, Inc., 94 Hawai'i 297, 12 P.3d 1238 (2000), we affirmed the ICA's determination that the Board had erred in denying compensation to a claimant because "the ICA viewed the [employer's] doctors'

reports as failing expressly, directly[,] and specifically to rebut the presumption" of compensability. Id. at 308, 12 P.3d at 1249 (emphasis deleted). Our holding in Korsak also refers to the degree of specificity required to adduce evidence sufficient to rebut the presumption of compensability. In Korsak, a claimant with a pre-existing low back condition fell in his employer's parking lot and injured his knee. Id. at 300, 12 P.3d at 1241. The compensability of that injury was not disputed. Id. While participating in physical therapy for the primary knee injury, the claimant alleged that he injured his back while performing a stretching exercise with his legs, straining his sciatic nerve. Id. In a proceeding to determine the compensability of the claimant's back injury -- which would have been compensable if related to the physical therapy -- the employer submitted the reports of two medical experts who opined that the claimant's back injury was the result of the natural progression of his pre-existing condition. Id. at 301, 12 P.3d at 1242. The doctors' reports focused on whether the claimant's fall contributed to his back injury but did not address whether the physical therapy session contributed to the claimant's back condition, id., and we effectively reasoned that the doctor's reports were insufficiently specific to rebut the presumption of compensability. See id. at 308, 12 P.3d at 1249. The evidence submitted by the employer focused on the wrong incident (i.e.,

the fall) and failed to address the obvious issue that a reasonable trier of fact would logically need to resolve: whether the stretching maneuver that strained the sciatic nerve during therapy contributed to the claimant's back condition. Although the employer's doctors did refer to another doctor's report that had, in turn, referred to the physical therapy incident, see id. at 302, 12 P.3d at 1243, the employer's doctors' failure to even mention such an obvious connection between the stretching exercises during physical therapy and the return of the claimant's back pain strongly suggested that they had not seriously considered it. Thus, there was no "relevant and credible" evidence by which the trier of fact, giving the benefit of the doubt to the claimant, could have concluded that the physical therapy session was unrelated to the claimant's subsequent back pain.

By contrast, Dr. Ponce's report -- likening Nakamura's pre-garnishment condition to his earlier employment difficulties and his statement that the garnishment was responsible for Nakamura's current difficulties -- was sufficiently specific for the trier of fact to conclude that Nakamura's pre-garnishment difficulties were related to a pre-existing condition rather than the workplace environment.[5]

[5] Furthermore, in Korsak, as in Akamine and Chung, discussed infra, the medical evidence was apparently the only relevant evidence considered; here,

(continued...)

Finally, the ICA misapplied this court's dictum in Chung that, "in cases where the testimony of two doctors directly conflict on the issue of an injury's causal connection to the claimant's employment activity, the legislature has decided that the conflict should be resolved in the claimant's favor." ICA opinion at 29 (citing Chung, 63 Haw. at 652, 636 P.2d at 727).[6] The claimant in Chung was a veterinarian who had a heart attack while jogging. See 63 Haw. at 643-44, 636 P.2d at 722-23. One physician testified that there was a causal connection between the heart attack and the claimant's employment because the claimant's long hours and his business activities created a substantial amount of mental and emotional stress which was linked to the production of heart disease. Id., 63 Haw. at 652, 636 P.2d at 727. Another physician attributed the heart attack to pre-existing atherosclerosis and physical exertion from jogging. Id. at 652, 636 P.2d at 727. The Board held that the injury was work-related, and this court upheld the Board's decision on the grounds that it was not clearly erroneous. See id. at 651-52, 636 P.2d at 727.

[5](...continued)
additional evidence provided by non-experts supported the Board's decision.

[6] Interestingly, the fact that the ICA viewed the reports of Dr. Shimizu and Dr. Ponce as being in "direct conflict" also reinforces our conclusion that Dr. Ponce's report was not a mere "generalized" opinion but, rather, formed a sufficiently specific basis for the Board's conclusion.

In Chung, the only evidence discussed was the conflicting opinion testimony of two physicians; in finding for the claimant, the Board evidently placed equal or greater weight upon the testimony presented in his favor. This court's statement concerning the evaluation of conflicting expert testimony must be viewed in that context. In other words, the statement in Chung that conflicting expert opinion should be resolved in favor of the claimant derives from the principle that the presumption of compensability is not rebutted when there is credible conflicting evidence as to causation that is of equal weight and effect. Chung does not stand for the broad proposition that the Board is mandated to reconcile conflicting expert testimony in favor of the claimant; that proposition would eviscerate the well established rule that the Board's determinations of credibility and weight are entitled to deference. See Igawa, 97 Hawai'i at 410 n.7, 38 P.3d 578 n.7 ("Chung does not . . . stand for the proposition that all conflicts in medical evidence should be resolved in the claimant's favor.").

Finally, having concluded that UH adduced substantial evidence which, if true, could rebut the presumption of compensability, we review the Board's decision in light of our deference to its role in assessing the relative credibility and weight of the evidence for and against compensability, mindful

that UH bears the burden of persuasion as to which Nakamura should be given the benefit of the doubt. Although Dr. Shimizu testified that she believed that Nakamura's hostile work environment contributed to his inability to work, she never testified as to the basis of her conclusion, and her clinical notes in the record do not state the basis for her conclusion. The Board explicitly found that it believed Dr. Ponce's diagnosis. Furthermore, although Dr. Shimizu disagreed with some aspects of Dr. Ponce's diagnosis, she did agree that Nakamura had a pre-existing condition and that the IRS garnishment contributed to Nakamura's inability to work. Despite the evidence that one supervisor yelled at and threatened people and that Nakamura was bothered by an encounter he had with this supervisor sometime between May and September 1995, Nakamura's other allegations were not accepted as credible. Considering the foregoing in conjunction with the substantial evidence previously discussed and giving due deference to the Board's role in evaluating the weight and credibility of the evidence, see Igawa, 97 Hawai'i 409-10, 38 P.3d 577-78, we hold that the Board's decision was not clearly erroneous. Cf. Poe, 87 Hawai'i at 195, 953 P.2d at 573 (mixed questions of fact and law reviewed under clearly erroneous standard).

IV. CONCLUSION

Because UH adduced substantial evidence to rebut the presumption of work-relatedness attributable to Nakamura's claim and giving due deference to the Board's role in evaluating the weight and credibility of the evidence, we hold that the Board's decision was not clearly erroneous. Accordingly, we reverse the ICA opinion and affirm the Board's decision denying Nakamura's workers' compensation claim.

Roland Q. F. Thom and
Laurie E. Keeno (of Char
Hamilton Campbell & Thom),
for petitioner-appellee,
on the writ

Bruce K. Nakamura,
respondent-appellant,
appearing pro se