

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-1447

BISHOP COAL COMPANY,

Petitioner,

v.

NORA L. HORNE, Surviving Spouse of David Horne; DIRECTOR,
OFFICE OF WORKERS' COMPENSATION PROGRAMS,

Respondents.

On Petition for Review of an Order of the Benefits Review Board.
(04-0460-BLA)

Submitted: September 5, 2008 Decided: September 17, 2008

Before WILKINSON, TRAXLER, and DUNCAN, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Douglas A. Smoot, William S. Mattingly, Kathy L. Snyder, JACKSON KELLY PLLC, Morgantown, West Virginia, for Petitioner. Howard M. Radzely, Solicitor of Labor, Donald S. Shire, Associate Solicitor, Christian P. Barber, Barry H. Joyner, UNITED STATES DEPARTMENT OF LABOR, Washington, D.C.; Joseph E. Wolfe, W. Andrew Delph, Jr., WOLFE, WILLIAMS & RUTHERFORD, Norton, Virginia, for Respondents.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Bishop Coal Company seeks review of the Benefits Review Board's decision and order affirming the administrative law judge's award of survivor's black lung benefits pursuant to 30 U.S.C. §§ 901-945 (2000). Our review of the record discloses that the Board's decision is based upon substantial evidence and is without reversible error. Accordingly, we deny the petition for review for the reasons stated by the Board. Bishop Coal Co. v. Horne, No. 04-0460-BLA (B.R.B. Feb. 24, 2005). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

PETITION DENIED