

UNPUBLISHEDUNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-1803

FRANKLIN D. STEVENSON,

Petitioner,

v.

DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS; ISLAND
CREEK COAL COMPANY,

Respondents.

On Petition for Review of an Order of the Benefits Review Board.
(06-0799-BLA)

Submitted: March 31, 2008

Decided: April 17, 2008

Before TRAXLER, GREGORY, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Franklin D. Stevenson, Petitioner Pro Se. Patricia May Nece, UNITED STATES DEPARTMENT OF LABOR, Washington, D.C.; Mary Rich Maloy, Douglas Allan Smoot, JACKSON & KELLY, PLLC, Charleston, West Virginia; Kathy Lynn Snyder, JACKSON & KELLY, PLLC, Morgantown, West Virginia, for Respondents.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Franklin D. Stevenson seeks to appeal the Benefits Review Board's order affirming the Administrative Law Judge's decision and order on remand denying Stevenson's application for black lung benefits. We dismiss the appeal for lack of jurisdiction because the petition for review was not timely filed.

In a black lung benefits case, a party seeking review of a decision and order issued by the Board must file a petition for review in the court of appeals within sixty days after the order is issued. 33 U.S.C. § 921(c) (2000). The sixty-day period for seeking review is jurisdictional, and a petition for review must be filed with the clerk of this court to stop the running of this period. Adkins v. Dir., Office of Workers' Comp. Programs, 889 F.2d 1360, 1363 (4th Cir. 1989). "[T]he sixty day filing period begins to run with the filing of a Board opinion with the Clerk of the Board." Mining Energy, Inc. v. Dir., Office of Workers' Comp. Programs, 391 F.3d 571, 575-76 (4th Cir. 2004).

In this case, the Board's decision was issued and served on the parties on June 15, 2007. Stevenson's petition for review was not filed until August 17, 2007, three days after the appeal period expired. We therefore dismiss the appeal. 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.

DISMISSED