

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 08-2084**

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JANICE V. BROWN, Widow of Bobby Brown,

Petitioner,

v.

PERFORMANCE COAL COMPANY; DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS,

Respondents.

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On Petition for Review of an Order of the Benefits Review Board.  
(07-0978-BLA)

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Submitted: April 15, 2009

Decided: May 5, 2009

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Before MOTZ, GREGORY, and SHEDD, Circuit Judges.

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Petition denied by unpublished per curiam opinion.

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S.F. Raymond Smith, JULIET RUNDLE & ASSOCIATES, Pineville, West Virginia, for Petitioner. Douglas A. Smoot, Kathy L. Snyder, JACKSON KELLY PLLC, Morgantown, West Virginia, for Respondent Performance Coal Company.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Janice Brown, survivor of Bobby Brown, deceased, seeks review of the Benefits Review Board's decision and order affirming the administrative law judge's denial of black lung benefits pursuant to 30 U.S.C. §§ 901-945 (2006). 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. Brown v. Performance Coal Co., No. 07-0978-BLA (B.R.B. Aug. 29, 2008). 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