

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 15-1322**

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MCELROY COAL COMPANY,

Petitioner,

v.

DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED  
STATES DEPARTMENT OF LABOR; ROGER D. KENNEDY,

Respondents.

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On Petition for Review of an Order of the Benefits Review Board.  
(13-0592 BLA)

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Submitted: November 30, 2015

Decided: December 11, 2015

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Before WILKINSON, AGEE, and KEENAN, Circuit Judges.

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Petition denied by unpublished per curiam opinion.

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Jeffrey R. Soukup, Kevin M. McGuire, Williams S. Mattingly,  
JACKSON KELLY PLLC, Lexington, Kentucky, for Petitioner. M.  
Patricia Smith, Solicitor of Labor, Rae Ellen James, Associate  
Solicitor, Gary K. Stearman, UNITED STATES DEPARTMENT OF LABOR,  
Washington, D.C.; Anne Megan Davis, Thomas E. Johnson, JOHNSON,  
JONES, SNELLING, GILBERT & DAVIS, P.C., Chicago, Illinois, for  
Respondents.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

McElroy Coal Company seeks review of the Benefits Review Board's decision and order affirming the administrative law judge's award of living miner benefits to former miner Roger D. Kennedy, pursuant to 30 U.S.C. §§ 901-945 (2012) and its subsequent order denying reconsideration. Our review of the record discloses that the ALJ's decision is based upon substantial evidence and that the Board's decision is without reversible error. Accordingly, we deny the petition for review. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

PETITION DENIED