

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 15-2491**

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WESTMORELAND COAL COMPANY, INCORPORATED,

Petitioner,

v.

JOHNNY FORTNER; DIRECTOR, OFFICE OF WORKERS' COMPENSATION  
PROGRAMS, UNITED STATES DEPARTMENT OF LABOR,

Respondents.

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On Petition for Review of an Order of the Benefits Review Board.  
(14-0412 BLA)

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Submitted: November 30, 2016

Decided: December 21, 2016

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Before MOTZ, KEENAN, and DIAZ, Circuit Judges.

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Petition denied by unpublished per curiam opinion.

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Paul E. Frampton, Michael J. Schessler, BOWLES RICE LLP,  
Charleston, West Virginia, for Petitioner. Joseph E. Wolfe, WOLFE  
WILLIAMS & REYNOLDS, Norton, Virginia; M. Patricia Smith,  
Solicitor of Labor, Rae Ellen James, Associate Solicitor, Gary K.  
Stearman, Counsel for Appellate Litigation, Rita A. Roppolo,  
UNITED STATES DEPARTMENT OF LABOR, Washington, D.C., for  
Respondents.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Westmoreland Coal Company seeks review of the Benefits Review Board's decision and order affirming the administrative law judge's award of black lung benefits on a subsequent claim filed by Johnny Fortner pursuant to 30 U.S.C. §§ 901-944 (2012). 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. Westmoreland Coal Co. v. Fortner, No. 14-0412 BLA (B.R.B. Sept. 30, 2015). 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