

Commonwealth Of Kentucky

Court Of Appeals

NO. 97-CA-2232-WC

ULIS McNEW

APPELLANT

v.

PETITION FOR REVIEW OF A DECISION
OF THE WORKERS' COMPENSATION BOARD
ACTION NO. WC-96-2416

NEW HORIZONS COAL, INC.;
ROBERT E. SPURLIN, Director of
Special Fund; HON. DONNA
TERRY, Administrative Law
Judge; and WORKERS'
COMPENSATION BOARD

APPELLEES

OPINION
REMANDING

** ** * * * **

BEFORE: GUDGEL, Chief Judge; BUCKINGHAM and KNOPF, JUDGES.

KNOPF, JUDGE. On September 15, 1997, Ulis McNew brought the above-styled appeal from an opinion of the Workers' Compensation Board denying his application for additional occupational disease benefits. One of the issues on appeal is the criteria for reopening a coal worker's pneumoconiosis claim following a previous award of retraining incentive benefits. On February 19, 1998, the Supreme Court rendered its opinion in Campbell v. Universal Mines, Ky., ____ S.W.2d ____ (1998). Campbell addressed the criteria for reopening a pneumoconiosis claim under

KRS 342.125 and established new rules for determining whether a prior retraining benefits recipient is entitled to reopen his case to seek new benefits.

On February 25, 1998, we entered an order holding this case in abeyance pending the finality of Campbell v. Universal Mines. On April 14, 1998, Campbell v. Universal Mines became final.

In view of the new rules established in Campbell, we reverse the decision of the Worker's Compensation Board and remand this case to the Administrative Law Judge for a review of appellant's claims in light of the new criteria established in Campbell v. Universal Mines, supra.

ALL CONCUR.

BRIEF FOR APPELLANT:

Ronald C. Cox
Harlan, Kentucky

BRIEF FOR APPELLEE, NEW
HORIZONS COAL, INC.:

Clark, Ward & Cave
Mary Kay Williams
Lexington, Kentucky

BRIEF FOR SPECIAL FUND:

Joel D. Zakem
Louisville, Kentucky

