

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

JIMMY PHILLIPS,

Petitioner,

v.

EASTERN ASSOCIATED COAL
CORPORATION; DIRECTOR, OFFICE OF
WORKERS' COMPENSATION PROGRAMS,
UNITED STATES DEPARTMENT OF
LABOR,

Respondents.

No. 00-2080

On Petition for Review of an Order
of the Benefits Review Board.
(99-1017-BLA)

Submitted: January 10, 2001

Decided: January 30, 2001

Before NIEMEYER, MICHAEL, and KING, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

S.F. Raymond Smith, RUNDLE & RUNDLE, L.C., Pineville, West Virginia, for Petitioner. Mark E. Solomons, Laura Metcoff Klaus, ARTER & HADDEN, L.L.P., Washington, D.C., for Respondents.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

Jimmy Phillips seeks review of the Benefits Review Board's decision and order affirming the administrative law judge's ("ALJ") denial of black lung benefits pursuant to 30 U.S.C.A. §§ 901-945 (West 1986 & Supp. 2000). Phillips contends that the ALJ did not use the proper legal standard in determining that he did not suffer from pneumoconiosis.

We must affirm the Board's decision if it correctly found that the ALJ's decision is supported by substantial evidence and is in accordance with law. *Doss v. Director, Office of Workers' Compensation Programs*, 53 F.3d 654, 658 (4th Cir. 1995). Our review of the record discloses that the Board's decision is based upon substantial evidence and is without reversible error. The ALJ's finding that the x-ray evidence did not establish pneumoconiosis was supported by substantial evidence. Furthermore, the ALJ's finding that the medical opinions were in equipoise was also supported by substantial evidence. In addition, the ALJ's review of the record was not in conflict with this court's decision in *Island Creek Coal Co. v. Compton*, 211 F.3d 203 (4th Cir. 2000).

Accordingly, we affirm on the reasoning of the Board. *See Phillips v. Eastern Assoc. Coal Corp.*, BRB No. 99-1017-BLA (B.R.B. June 29, 2000). 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.

AFFIRMED