

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-1594

KANAWHA COAL COMPANY,

Petitioner,

versus

JOHN AKERS; DIRECTOR, OFFICE OF WORKERS'
COMPENSATION PROGRAMS,

Respondents.

On Petition for Review of an Order of the Benefits Review Board.
(04-652-BLA)

Submitted: February 28, 2006

Decided: March 22, 2006

Before WILKINSON, NIEMEYER, and TRAXLER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

David L. Yaussy, ROBINSON & MCELWEE, PLLC, Charleston, West Virginia, for Petitioner. Sandra M. Fogel, CULLEY & WISSORE, Carbondale, Illinois; Mary Z. Natkin, James M. Phemister, WASHINGTON AND LEE UNIVERSITY SCHOOL OF LAW, Lexington, Virginia, for Respondent John Akers.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Kanawha 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 claim filed by John Akers pursuant to 30 U.S.C. §§ 901-945 (2000). Our review of the record discloses that the Board's decision is based upon substantial evidence and is without reversible error. Accordingly, we affirm for the reasons stated by the Board. See Kanawha Coal Co. v. Akers, No. 04-652-BLA (BRB Apr. 29, 2005). 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