

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-1902

WEST VIRGINIA COAL WORKERS' PNEUMOCONIOSIS
FUND, as carrier for Vision Coal Company,

Petitioner,

versus

TRACY H. CHAMP; DIRECTOR, OFFICE OF WORKERS'
COMPENSATION PROGRAMS,

Respondents.

On Petition for Review of an Order of the Benefits Review Board.
(05-569-BLA; 03-6092-BLA)

Submitted: January 26, 2007

Decided: March 14, 2007

Before NIEMEYER, MICHAEL, and TRAXLER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

William Steele Mattingly, Ashley M. Harman, JACKSON & KELLY, PLLC,
Morgantown, West Virginia, for Petitioner. Tracy H. Champ,
Respondent Pro Se; Patricia May Nece, UNITED STATES DEPARTMENT OF
LABOR, Washington, D.C., Helen Hart Cox, OFFICE OF WORKERS'
COMPENSATION PROGRAMS, Washington, D.C., for Respondent Director,
Office of Workers' Compensation Programs.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

West Virginia Coal Workers' Pneumoconiosis Fund, as carrier for Vision Coal Company, seeks review of the Benefits Review Board's decision and order affirming the administrative law judge's award of black lung benefits, in favor of Tracy H. Champ, 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. West Virginia Coal Workers' Pneumoconiosis Fund v. Champ, No. 05-569-BLA (BRB June 22, 2006). 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

*On appeal, the Fund asserts that Champ should have been required to render a designation of x-ray evidence in proceedings before the Administrative Law Judge, and that the Administrative Law Judge erred by failing to consider pulmonary evaluation reports prepared by Dr. Castle and Dr. Forehand. We deem these contentions waived, however, as they were not presented during the course of the administrative proceedings. See Armco, Inc. v. Martin, 277 F.3d 468, 476 (4th Cir. 2002).