

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 98-2740

NEWPORT NEWS SHIPBUILDING AND DRY DOCK COMPANY,

Petitioner,

versus

DIRECTOR, OFFICE OF WORKERS' COMPENSATION PRO-
GRAMS, UNITED STATES DEPARTMENT OF LABOR;
ROSCOE MITCHELL,

Respondents.

On Petition for Review of an Order of the Benefits Review Board.
(98-289)

Submitted: October 14, 1999

Decided: January 14, 2000

Before WIDENER, LUTTIG, and MICHAEL, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Jonathan Henry Walker, MASON & MASON, P.C., Newport News, Virginia,
for Petitioner. Robert E. Walsh, Chanda L. Wilson, RUTTER, WALSH,
MILLS & RUTTER, L.L.P., Norfolk, Virginia, for Respondents.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Newport News Shipbuilding and Dry Dock Company seeks review of the Benefits Review Board's decision and order affirming the Administrative Law Judge's ("ALJ") award of disability benefits under the Longshore and Harbor Workers Compensation Act, 33 U.S.C. § 901 (1994). Our review of the record discloses that the Board's decision was based upon substantial evidence and is without reversible error. Accordingly, we affirm substantially on the reasoning of the Board. See Newport News Shipbuilding v. DOWCP, No. 98-289 (BRB Nov. 12, 1998). In addition, we find that Newport News has failed to show or even claim prejudice to its case as a result of the ALJ's failure to consider Claimant's refusal to meet with Newport News' vocational expert. Therefore, any error in this regard was harmless. 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