

BRB No. 98-1279 BLA

LINDA G. STILTNER)	
(Widow of JAMES H. STILTNER))	
)	
Claimant-Petitioner)	
)	
v.)	
)	
DIRECTOR, OFFICE OF WORKERS')	DATE ISSUED:
COMPENSATION PROGRAMS, UNITED)	
STATES DEPARTMENT OF LABOR)	
)	
Respondent)	DECISION and ORDER

Appeal of the Decision and Order of Daniel A. Sarno, Jr., Administrative Law Judge, United States Department of Labor

Linda G. Stiltner, Richlands, Virginia, *pro se*.

Rita A. Roppolo (Henry L. Solano, Solicitor of Labor; Donald S. Shire, Associate Solicitor; Rae Ellen Frank James, Deputy Associate Solicitor; Richard A. Seid and Michael J. Rutledge, Counsel for Administrative Litigation and Legal Advice), Washington, D.C., for the Director, Office of Workers' Compensation Programs, United States Department of Labor.

Before: HALL, Chief Administrative Appeals Judge, BROWN, Administrative Appeals Judge, and NELSON, Acting Administrative Appeals Judge.

PER CURIAM:

Claimant,¹ without the benefit of counsel,² appeals the Decision and Order (97-BLA-

¹ Claimant is Linda G. Stiltner, surviving spouse of the miner, James H. Stiltner, who died on May 21, 1995. Director's Exhibit 8.

² Ron Carson, a benefits counselor with Stone Mountain Health Services of Vansant, Virginia, requested, on behalf of claimant, that the Board review the administrative law judge's decision, but Mr Carson is not representing claimant on appeal. *See Shelton v. Claude V. Keen Trucking Co.*, 19 BLR 1-88 (1995)(Order).

1461) of Administrative Law Judge Daniel A. Sarno, Jr. denying benefits on a survivor's claim filed pursuant to the provisions of Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended, 30 U.S.C. §901 *et seq.* The administrative law judge concluded that the evidence failed to establish the existence of pneumoconiosis pursuant to 20 C.F.R. §718.202(a) and was insufficient to establish that the miner's death was due to pneumoconiosis pursuant to 20 C.F.R. §718.205(c). Accordingly, the administrative law judge denied benefits.

In an appeal by a claimant filed without the assistance of counsel, the Board considers the issue raised on appeal to be whether the Decision and Order below is supported by substantial evidence. *McFall v. Jewell Ridge Coal Co.*, 12 BLR 1-176 (1989); *Stark v. Director, OWCP*, 9 BLR 1-36 (1986). We must affirm the administrative law judge's Decision and Order if the findings of fact and conclusions of law are rational, supported by substantial evidence, and in accordance with law. 33 U.S.C. §921(b)(3), as incorporated by 30 U.S.C. §932(a); *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965). The Director, Office of Workers' Compensation Programs, in response, asserts that the administrative law judge's findings are supported by substantial evidence, and urges affirmance of the administrative law judge's Decision and Order.

The administrative law judge correctly found that the only evidence relative to the cause of the miner's death was the death certificate by Dr. Mitchell which stated that the miner's death was due to respiratory failure due to chronic obstructive pulmonary disease with coal workers' pneumoconiosis, Director's Exhibit 8; Decision and Order at 2-3. The administrative law judge found, however, that the bases for Dr. Mitchell's opinion were unclear, and that there was no evidence that it was based on a review of any objective data. Decision and Order at 3. Accordingly, the administrative law judge rejected Dr. Mitchell's opinion as he permissibly concluded that Dr. Mitchell's opinion was not reasoned or documented. *Lafferty v. Cannelton Industries, Inc.*, 12 BLR 1-190 (1989); *Clark v. Karst-Robbins Coal Co.*, 12 BLR 1-49 (1989)(*en banc*). As it is claimant's burden to establish that the miner's pneumoconiosis was a substantially contributing cause of the miner's death, *i.e.*, hastened the miner's death, *see Shuff v. Cedar Coal Co.*, 967 F.2d 977, 16 BLR 2-90 (4th Cir. 1992); *see also Haduck v. Director, OWCP*, 14 BLR 1-29 (1990); *Neeley v. Director, OWCP*, 11 BLR 1-85 (1988), the administrative law judge's finding at Section 718.205(c) is supported by substantial evidence. We affirm, therefore, the administrative law judge's finding that the medical evidence fails to establish death due to pneumoconiosis at Section 718.205(c). Accordingly, we affirm the administrative law judge's denial of benefits in the instant case.³

³ We need not address the administrative law judge's findings with respect to the existence of pneumoconiosis at Section 718.202(a), as they are rendered moot by our disposition of the case. *See Gibas v. Saginaw Mining Co.*, 748 F.2d 1112, 7 BLR 2-53 (6th

Accordingly, the administrative law judge's Decision and Order denying benefits is affirmed.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

JAMES F. BROWN
Administrative Appeals Judge

MALCOLM D. NELSON, Acting
Administrative Appeals Judge

Cir. 1984); *Warman v. Pittsburg and Midway Coal Co.*, 8 BLR 1-390 (1985); *Rematta v. Director, OWCP*, 8 BLR 1-214 (1985).