

CCASE:
SOL V. ALLIED PRODUCTS
DDATE:
19820707
TTEXT:

Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges

SECRETARY OF LABOR,
PETITIONER

v.

ALLIED PRODUCTS COMPANY,
RESPONDENT

Civil Penalty Proceeding

Docket No. SE 79-46-M
AC No. 01-00040-05006-F

Montevallo Quarry & Mill

ORDER ON REMAND

In Allied Products Co. v. Federal Mine Safety and Health Review Commission, No. 80-7935, 5th Cir. Unit B (February 1, 1982), rehearing den. March 9, 1982, the Court affirmed a final order of the Commission in this case, finding that Allied Products violated three mandatory safety standards. 2 FMSHRC 2517 (ALJ, Sept. 1980). The Court found, however, that the penalties assessed were an abuse of discretion and remanded for further proceedings "with instructions to recalculate the penalties based on the existing record and on considerations outlined in this opinion." The Court's mandate was received by the Commission on April 9, 1982.

The Commission remanded the case to me on May 5, 1982, for "the initial determination of the necessary and appropriate action in light of the Court's decision and remand."

On June 26, 1982, the parties filed a Settlement Agreement proposing total penalties of \$5,000 for the three violations found in my original decision. I find this Settlement to be consistent with the Court's decision and remand.

WHEREFORE IT IS ORDERED that:

1. The proposed Settlement Agreement is APPROVED.
2. The penalties issued in my decision of September 14, 1980 are hereby changed to read as follows: A penalty of \$2,000.00 for Citation No. 81004, a penalty of \$1,000.00 for Citation No. 81007, and a penalty of \$2,000.00 for Citation/Order No. 81053.
3. Respondent shall pay the Secretary of Labor the above penalties, in the total amount of \$5,000.00, within 30 days of this Order.

WILLIAM FAUVER
JUDGE