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SOL (MSHA) V. MARTIN COAL
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Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
PETITIONER
v.

CIVIL PENALTY PROCEEDING
Docket No. KENT 80-354
No. 1-S Mine

MARTIN COUNTY COAL CORPORATION,
RESPONDENT

ORDER OF DISMISSAL

Before: Judge Steffey

Counsel for the Secretary of Labor filed on September 12, 1980, in the above-entitled proceeding a petition for assessment of civil penalty seeking to have a penalty assessed for the violation of section 105(c)(1) of the Federal Mine Safety and Health Act of 1977 which I had found occurred in my decision issued in Martin County Coal Corporation v. Secretary of Labor (MSHA), et al., Docket Nos. KENT 80-212-R, et al., 2 FMSHRC 2829 (1980).

The Commission's decision in Council of Southern Mountains, Inc. v. Martin County Coal Corporation, Docket No. KENT 80-222-D, 6 FMSHRC ----, issued February 29, 1984, reversed my decision reported at 2 FMSHRC 2829 and held that no violation of section 105(c)(1) occurred when Martin County Coal Corporation refused to allow a non-employee miners' representative to come on mine property for the purpose of monitoring Martin County Coal Corporation's training classes.

Since no violation of section 105(c)(1) occurred, the civil penalty sought for that violation in the petition for assessment of civil penalty filed in this proceeding must be dismissed.

WHEREFORE, it is ordered:

The petition for assessment of civil penalty filed in Docket No. KENT 80-354 is dismissed and all further proceedings in this case are terminated.

Richard C. Steffey
Administrative Law Judge