

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
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FALLS CHURCH, VIRGINIA 22041

JUL 24 1984

SECRETARY OF LABOR, MINE SAFETY AND HEALTH ADMINISTRATION (MSHA), Petitioner	:	CIVIL PENALTY PROCEEDING
	:	Docket No. LAKE 84-38
	:	A.C. No. 11-00599-03548
v.	:	
	:	Orient Mine No. 6
FREEMAN UNITED COAL MINING COMPANY, Respondent	:	

DECISION

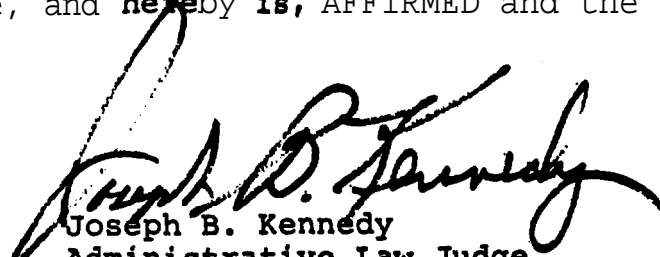
Appearances: Rafael Alvarez, Esq., Office of the Solicitor,
U.S. Department of Labor, Chicago, Illinois,
for Petitioner:
Harry M. Coven, Esq., Gould & Ratner, Chicago,
Illinois, for Respondent.

Before: Judge Kennedy

The captioned penalty proceeding came on for an evidentiary hearing in Chicago, Illinois on May 17, 1984. The 104(a) S&S citation charged a violation of 30 C.F.R. 75.304, failure to make an adequate onshift examination for hazardous conditions.

During examination of the inspector it became apparent that the violation charged could not in fact have occurred. Whereupon, counsel for the Secretary moved to vacate the citation and dismiss the proposal for penalty. **There being** no opposition the motion was granted and the case dismissed.

The premises considered, it is ORDERED that the bench decision in this matter be, and hereby is, AFFIRMED and the matter DISMISSED.



Joseph B. Kennedy
Administrative Law Judge

Distribution:

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