

CCASE:  
RONALD MCKINNEY V. EASTERN ASSOCIATED COAL  
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TTEXT:

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

RONALD E. MCKINNEY,  
COMPLAINANT

DISCRIMINATION PROCEEDING

v.

Docket No. WEVA 86-92-D  
MSHA Case No. HOPE CD 86-3

EASTERN ASSOCIATED COAL  
CORPORATION,  
RESPONDENT

Keystone No. 2 Mine

DECISION APPROVING SETTLEMENT

Before: Judge Koutras

Statement of the Case

This is a discrimination proceeding initiated by the complainant Ronald E. McKinney against the respondent pursuant to section 105(c) of the Federal Mine Safety and Health Act of 1977, alleging that the respondent discriminated against him by discharging him for exercising certain rights afforded him under the Act. Mr. McKinney's initial complaint was investigated by MSHA, and it declined to file a formal complaint with this Commission. Mr. McKinney subsequently retained private counsel who filed this action on his behalf.

This matter was scheduled for a hearing on the merits in Beckley, West Virginia, on June 19, 1986. By motion filed June 5, 1986, Mr. McKinney's counsel requested leave to withdraw the complaint on the ground that the parties have fully resolved their differences and have settled the matter. The terms of the settlement agreement are set forth in a four page agreement executed by Mr. McKinney and counsel for the parties, and they all agree that the settlement terms are fair and proper.

The respondent has agreed to make a lump sum payment to Mr. McKinney in complete satisfaction of all claims against the respondent, and to change its employment termination records from a discharge of McKinney to reflect a voluntary resignation. The respondent also agrees that upon receipt of any future job reference requests on Mr. McKinney's behalf,

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it will provide information concerning his dates of employment and job classifications while in the respondent's employ, safety and attendance ratings of "satisfactory," and information reflecting that he is not eligible for rehire due to his voluntary resignation.

#### Conclusion

After careful review and consideration of the settlement terms and conditions executed by the parties in this proceeding, including Mr. McKinney, I conclude and find that it reflects a reasonable resolution of his complaint. Since it seems clear to me that all parties are in accord with the agreed upon settlement disposition of the complaint, I see no reason why it should not be approved.

#### ORDER

The proposed settlement IS APPROVED. Respondent IS ORDERED AND DIRECTED to fully comply forthwith with the terms of the agreement. Upon full and complete compliance with the terms of the agreement, this matter is dismissed.

George A. Koutras  
Administrative Law Judge