

CCASE:

WILLIAM SHELL, RALPH CORNETT, JACK FARLEY, JIM ENGLE V. HARLAN-BELL COAL

DDATE:

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TTEXT:

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

WILLIAM D. SHELL, RALPH CORNETT, JACK FARLEY, JIM ENGLE,	DISCRIMINATION PROCEEDING
COMPLAINANTS	Docket Nos. KENT 85-144-D KENT 85-145-D KENT 85-146-D KENT 85-147-D

v.

HARLANABELL COAL, INC., AND  
REECE LEMAR,  
RESPONDENTS

SECRETARY OF LABOR, MINE SAFETY AND HEALTH ADMINISTRATION (MSHA), ON BEHALF OF WILLIAM D. SHELL, RALPH CORNETT, JACK FARLEY, JIM ENGLE, RAYMOND HALCOMB, CHARLES ROBBINS,	DISCRIMINATION PROCEEDING
COMPLAINANTS	Docket Nos. KENT 85-210-D KENT 85-211-D KENT 85-212-D KENT 85-213-D KENT 85-176-D KENT 85-177-D

v.

HARLANABELL COAL, INC., AND  
SHAUNA DAREASE COAL CO.,  
RESPONDENTS

DECISION APPROVING SETTLEMENT

Before: Judge Maurer

Statement of the Case

This is a discrimination proceeding initiated by the complainants against the respondents pursuant to section 105(c) of the Federal Mine Safety and Health Act of 1977, (the Act) charging the respondents with unlawful discrimination against the complainants for exercising certain rights afforded them under the Act. The matter was scheduled for hearing in Berea, Kentucky, on May 21, 1986, but was continued when the parties advised me of a proposed settlement disposition of the dispute.

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On June 3, 1986, the parties filed joint settlement agreements proposing to dispose of this matter. Included as part of the negotiated settlement is an agreement by the respondents to pay certain sums to each complainant as follows in three equal installments on May 21, 1986, June 20, 1986, and July 21, 1986:

William D. Shell	\$6,000.00
Ralph Cornett	\$6,088.25
Jack Farley	\$7,678.13
Jim Engle	\$6,542.50
Raymond Halcomb	\$6,000.00
Charles D. Robbins	\$6,542.50

Likewise, the respondents agreed to pay the Appalachian Research and Defense Fund of Kentucky, Inc. the total sum of \$6,500.00 for attorney's fees and expenses. In addition, respondents agreed to expunge the personnel files of the complainants concerning their discharge from employment on or about January 3, 1985, and substitute therefor the agreed upon particular language applicable to each case. In the case of William D. Shell, his personnel file shall also reflect that he was returned to an active work status in September 1985, but due to low coal demands, his employment has again been temporarily suspended. He shall be immediately reinstated to a permanent full-time position at his regular rate of pay when economic conditions improve. In the case of Raymond Halcomb, respondents agreed that his temporary reinstatement is converted to permanent full-time reinstatement at his current hourly wage.

The Secretary waived the assessment of a civil penalty for violations of 105(c) of the Act in order to facilitate the agreement and thereby provide speedy economic relief to the complainants.

#### Conclusion

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

#### ORDER

The proposed settlement IS APPROVED. Respondents ARE ORDERED AND DIRECTED to fully comply forthwith with the

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terms of the agreement. Upon full and complete compliance with the terms of the agreement, these matters are dismissed.

Roy J. Maurer  
Administrative Law Judge