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LARRY SWANEY V. SOUTHERN OHIO COAL
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Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges

LARRY D. SWANEY,
COMPLAINANT

v.

SOUTHERN OHIO COAL COMPANY,
RESPONDENT

DISCRIMINATION PROCEEDING

Docket No. WEVA 86-444-D
MSHA Case No. MORG CD 86-10

Martinka No. 1 Mine

ORDER OF DISMISSAL

Before: Judge Koutras

On November 25, 1986, I issued an Order to Show Cause requiring the complainant to explain why his complaint should not be dismissed because of his failure to respond or even acknowledge the respondent's repeated discovery requests. The complainant has been totally unresponsive to the respondent's certified and regular first class mailings, and they have been returned "unclaimed" by the Post Office Department. My show cause order was issued in response to the respondent's motion to dismiss the complaint.

In addition to the matters pleaded by the respondent in support of its motion to dismiss, the complainant has failed to acknowledge the Notice of Hearing issued on September 24, 1986, and a subsequently issued Notice of Continuance issued on October 8, 1986, and the Post Office Department returned both notices as "unclaimed." The latter notice was mailed by certified mail and regular first class mail.

My show cause order was mailed by both certified mail and regular first class mail, and the respondent has again failed to respond even though he was advised to respond either in writing or personally by collect telephone call to my office. He has done neither, and has not since been heard from.

Under the circumstances, in view of the complainant's failure to respond to the respondent's legitimate discovery

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requests, and to my show cause order, this case IS DISMISSED. The hearing scheduled for Morgantown, West Virginia, on December 16, 1986, IS CANCELLED.

George A. Koutras
Administrative Law Judge