

CCASE:  
RODNEY CHANEY V. JOHNNY TACKETT  
DDATE:  
19890406  
TTEXT:

Federal Mine Safety and Health Review Commission (F.M.S.H.R.C.)  
Office of Administrative Law Judges

RODNEY CHANEY,  
COMPLAINANT

DISCRIMINATION PROCEEDING

v.

Docket No. KENT 88-82-D  
PIKE-CD-88-03

JOHNNY TACKETT,  
(GILLETTE COAL COMPANY)  
RESPONDENT

ORDER OF DISMISSAL

Before: Judge Maurer

Respondent, by counsel, has moved to dismiss the subject complaint because of the complainant's continued failure and refusal to abide by the Commission's Rules of Practice or otherwise cooperate with the respondent to facilitate the trial of this case.

More specifically, on August 30, 1988, a Notice to take the deposition of the complainant and a request for production of documents was served upon the complainant. The complainant did not appear for the deposition or produce the documents, even though the deposition was once postponed at the request of the complainant and rescheduled at his convenience. Again, on February 14, 1989, a notice to take the deposition of the complainant and a request for production of documents was served upon the Complainant. Once again, the complainant failed to appear for his deposition or produce the requested documents.

Additionally, I note that I have scheduled this case and noticed it for hearing on three occasions. Once before, I have continued it at the request of the complainant and this last time because the complainant has failed and refused to cooperate with the normal discovery processes available to the parties to prepare their cases. I further note that complainant has never complied with the prehearing order issued by the undersigned on any of the three occasions that the case has been set down for hearing.

On March 7, 1989, an ORDER TO SHOW CAUSE was issued by the undersigned, wherein the complainant was ordered to show cause within ten (10) days as to why this proceeding should not be dismissed for "failure to prosecute his complaint or otherwise

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cooperate with the respondent to facilitate the trial of this case. There has been no response received to date with regard to this order or the respondent's motion to dismiss.

Accordingly, respondent's motion to dismiss IS GRANTED and this case IS DISMISSED.

Roy J. Maurer  
Administrative Law Judge