

CCASE:
SOL (MSHA) V. FAITH COAL
DDATE:
19900521
TTEXT:

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

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
PETITIONER

CIVIL PENALTY PROCEEDING

Docket No. SE 90-1
A.C. No. 40-02701-03532

v.

Goforth Mine

FAITH COAL COMPANY,
RESPONDENT

ORDER DENYING REQUEST FOR CONTINUANCE OF HEARING

On May 18, 1990, the petitioner's counsel called my office and left a message requesting a continuance of the hearing scheduled in this matter in Chattanooga, Tennessee on June 7, 1990. The stated reason for the request is that counsel has to be available in another matter for depositions on June 7, 1990, and he seeks a rescheduling of the hearing to later in June or July, 1990.

The notice of hearing in this matter was mailed to the parties on March 30, 1990, and I assume that the referenced depositions were scheduled after that date. In any event, in this case, the petitioner is seeking a \$54 civil penalty assessment for the alleged failure by the respondent to submit certain valid respirable dust samples. The respondent contends that the samples were taken and timely mailed. The issues do not appear to be complex, and I see no reason why the Regional Solicitor cannot assign this case to another attorney for trial. Further, I see no reason why counsel of record in this case cannot reschedule the depositions for another time.

The presiding judge's trial docket is full through the month of August, 1990, and taking into account other case assignments, this case would not be tried until the fall if it were to be continued. I simply cannot conclude that such a delay is warranted.

In view of the foregoing, the request for a continuance IS DENIED, and the hearing will proceed as scheduled.

George A. Koutras
Administrative Law Judge