

CCASE:
SOL (MSHA) V. CONSOLIDATION COAL
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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 90-66
A.C. No. 40-00520-03720

v.

Matthews Mine

CONSOLIDATION COAL COMPANY,
RESPONDENT

DECISION

Appearances: Mary Sue Taylor, Esq., Office of the Solicitor,
U.S. Department of Labor, Nashville, Tennessee,
for the Secretary of Labor (Secretary);
Walter J. Scheller, III, Esq., Pittsburgh,
Pennsylvania, for Respondent, Consolidation
Coal Company.

Before: Judge Broderick

This proceeding involves a single alleged violation of 30
C.F.R. 75.604(b) charged in a section 104(a) citation issued in
January 31, 1990.

Pursuant to notice the case was called for hearing in
Knoxville, Tennessee, on October 30, 1990. Federal coal mine
inspector John J. Sipos was called as a witness by the Secretary.
Following inspector Sipos' testimony, and a discussion off the
record between counsel, the Secretary moved to approve a
settlement agreement. Counsel stated that the violation was not
significant and substantial; that it was unlikely to result in
injury and was the result of low negligence. Consol agreed to pay
and the Secretary agreed to accept a penalty of \$20 for the
violation which was originally assessed at \$206.

On the basis of the inspector's testimony and considering
the criteria in section 110(i) of the Act, I stated on the record
that I would approve the settlement.

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Accordingly, the settlement agreement is APPROVED; the citation is MODIFIED to delete the significant and substantial classification and Respondent is ORDERED to pay the sum of \$20 within 30 days of the date of this order.

James A. Broderick
Administrative Law Judge