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CONSOLIDATION COAL V. MSHA
MSHA V. CONSOLIDATION COAL
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CONSOLIDATION COAL COMPANY, : CONTEST PROCEEDING
Contestant :
v. : Docket No. WEVA 91-210-R
: Citation No. 3105298; 2/7/91
SECRETARY OF LABOR, :
MINE SAFETY AND HEALTH : Robinson Run No. 95 Mine
ADMINISTRATION (MSHA), :
Respondent :
: :
SECRETARY OF LABOR, : CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH :
ADMINISTRATION (MSHA), : Docket No. WEVA 91-1961
Petitioner : A.C. No. 46-01318-04008
v. :
: Robinson Run No. 95 Mine
CONSOLIDATION COAL COMPANY, :
Respondent :

DECISION
and
ORDER OF DISMISSAL

Appearances: Wanda M. Johnson, Esq., Office of the Solicitor,
U.S. Department of Labor, Arlington, Virginia, for
the Petitioner/Respondent;
Walter J. Scheller, Esq., Consolidation Coal
Company, Pittsburgh, Pennsylvania, for the
Respondent/Contestant.

Before: Judge Koutras

Statement of the Proceedings

The captioned civil penalty proceeding concerns a proposal for assessment of civil penalty filed by the petitioner against the respondent pursuant to section 110(a) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 820(a), seeking a civil penalty assessment of \$379, for an alleged violation of mandatory safety standard 30 C.F.R. 75.400. The case was consolidated for hearing in Morgantown, West Virginia, with the captioned contest Docket No. WEVA 91-210-R, and with several other dockets concerning these same parties.

Discussion

The parties agreed to settle the civil penalty case, and the petitioner was afforded an opportunity to present the proposed settlement motion orally on the record pursuant to Commission Rule 30, 29 C.F.R. 2700.30.

In support of the proposed settlement, the petitioner stated that the respondent has agreed to pay the initial proposed penalty assessment of \$379, in full. I took note of the fact the violation was the result of moderate negligence, and that the cited condition was rapidly abated with an hour of the issuance of the citation.

Conclusion

In view of the foregoing, and after careful review of the pleadings and the arguments in support of the proposed settlement disposition of the alleged violation, the proposed settlement was approved from the bench. I conclude and find that the settlement is in the public interest, and my bench decision is reaffirmed. The settlement IS APPROVED.

ORDER

Docket No. WEVA 91-1961. The respondent IS ORDERED to pay a civil penalty assessment of \$379, in satisfaction of section 104(a) Citation No. 3105298, February 7, 1991, 30 C.F.R.

75.400. Payment is to be made to MSHA within thirty (30) day of the date of this decision and order, and upon receipt of payment, this matter is dismissed.

Docket No. WEVA 91-210-R. In view of the settlement disposition of the companion civil penalty case, the docketed contest case IS DISMISSED.

George A. Koutras
Administrative Law Judge

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