

CCASE:
BOBBY GENE STROUTH V. CAVALIER MINING
DDATE:
19930317
TTEXT:

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
2 SKYLINE, 10th FLOOR
5203 LEESBURG PIKE
FALLS CHURCH, VIRGINIA 22041

BOBBY GENE STROUTH, : DISCRIMINATION PROCEEDING
Complainant :
v. : Docket No. VA 91-34-D
: CAVALIER MINING CORPORATION, : NORT CD 90-16
Respondent :

ORDER OF DISMISSAL

Appearances: Edward G. Stout, Esq., Bressler, Curcio & Stout,
P.C., Bristol, Virginia, for Complainant;
No appearance for Respondent at the hearing.

Before: Judge Maurer

This case came on to be heard on December 15, 1992, in Abingdon, Virginia. No appearance was made on behalf of respondent because the respondent is currently involved in bankruptcy. This bankruptcy, originally filed under Chapter 11 has since been converted to a Chapter 7 bankruptcy proceeding from which there may or may not ever be any funds left over for distribution. In the meantime, section 362 of the Bankruptcy Code (11 U.S.C. 362) provides for a stay that effectively prohibits this discrimination action from proceeding to judgment.

In consideration of these circumstances, the complainant has filed a motion to withdraw his complaint in this matter, without prejudice to him refiling it, at his option, within 90 days after respondent is discharged from its bankruptcy proceeding. The respondent does not object to the grant of this motion.

In light of the foregoing circumstances, the complainant's motion to withdraw his complaint and dismiss this case, without prejudice, is GRANTED.

It is hereby ORDERED that this case be DISMISSED without prejudice to the complainant refiling it with this Commission, at his option, within 90 days after respondent is discharged from its bankruptcy proceeding.

Roy J. Maurer
Administrative Law Judge

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