

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
1331 PENNSYLVANIA AVE., N.W., SUITE 520N
WASHINGTON, DC 20004-1710

August 2, 2017

SECRETARY OF LABOR,
U.S. DEPARTMENT OF LABOR on
behalf of, STACEY WAYNE PUCKETT,
Complainant

v.

PANTHER CREEK MINING, LLC
Respondent

TEMPORARY REINSTATEMENT
PROCEEDING

Docket No. WEVA 2017-426

Mine: American Eagle Mine
Mine ID: 46-05437

AMENDMENT OF ORDER OF TEMPORARY REINSTATEMENT

Before: Judge Feldman

A summary decision was issued on July 12, 2017, granting the application for temporary reinstatement filed by the Secretary, pursuant to section 105(c)(2) of the Federal Mine Safety and Health Act of 1977 (the Mine Act or Act), 30 U.S.C. § 815(c)(2), on behalf of Stacey Wayne Puckett against Panther Creek Mining, LLC (Panther Creek). 38 FMSHRC __ (July 12, 2017) (ALJ). The reinstatement order required Panther Creek to immediately reinstate Puckett to his former position as a fireboss, or to an equivalent position, at the same rate of pay and benefits he received immediately prior to his discharge, and with the same or equivalent assigned duties.

On July 27, 2017, the parties advised the Commission that, effective July 12, 2017, they have agreed to economically reinstate Puckett in lieu of his temporary reemployment. Letter from Melanie J. Kilpatrick to Judge Feldman (July 27, 2017). Pursuant to their agreement, during the economic reinstatement period, “Puckett will be paid his full rate of pay . . . [including] entitle[ment] to all benefits he would otherwise normally receive.” The parties reserve the right to request actual reinstatement at any time after a reasonable notice period.

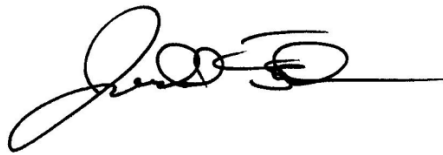
ORDER

In view of the above, consistent with the terms of the parties’ agreement, **IT IS ORDERED THAT** Panther Creek shall economically reinstate Stacey Wayne Puckett, with payment of backpay and benefits as of July 12, 2017.

Puckett’s economic reinstatement shall not prejudice Panther Creek’s right to contest Puckett’s discrimination complaint that currently is being investigated by the Secretary. The Secretary should endeavor to complete, as soon as practicable, his investigation so that this matter may proceed to an evidentiary hearing on the merits. If the Secretary, upon investigation, finds that the provisions of section 105(c) have not been violated, he shall file a motion to vacate

the underlying Order of Temporary Reinstatement. Commission Rule 45(g), 29 C.F.R. § 2700.45(g). Alternatively, Panther Creek may move to vacate this temporary reinstatement order if the Secretary declines to prosecute Puckett's complaint pursuant to section 105(c)(2) of the Mine Act. *Id.* An order dissolving the underlying order of reinstatement shall not bar the filing by Puckett of a discrimination complaint on his own behalf pursuant to section 105(c)(3) of the Act. 30 U.S.C. § 815(c)(3).

If the Secretary elects to file a discrimination complaint on behalf of Puckett pursuant to section 105(c)(2) of the Mine Act, economic reinstatement/temporary reinstatement shall remain in effect until the merits of the Secretary's 105(c)(2) complaint become final. 30 U.S.C. § 815(c)(2)

A handwritten signature in black ink, appearing to read 'Jerold Feldman', with a horizontal line extending to the right from the end of the signature.

Jerold Feldman
Administrative Law Judge

Distribution: (Electronic and Certified Mail)

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