

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

601 New Jersey Avenue, NW, Suite 9500
Washington, DC 20001-2021

December 2, 2009

SECRETARY OF LABOR,	:	TEMPORARY REINSTATEMENT
MINE SAFETY AND HEALTH	:	PROCEEDING
ADMINISTRATION, (MSHA),	:	
on behalf of MARK GRAY,	:	Docket No. KENT 2009-1429-D
Complainant	:	BARB CD 2009-13
	:	
v.	:	
	:	
NORTH FORK COAL CORPORATION,	:	Mine ID 15-18340
Respondent	:	No. 4 Mine

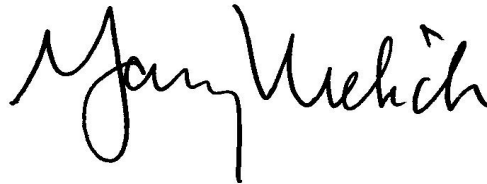
**ORDER DISSOLVING ORDER OF ECONOMIC TEMPORARY REINSTATEMENT /
ORDER OF DISMISSAL**

On September 8, 2009, the undersigned judge found that the Secretary’s application for the temporary reinstatement of Mark Gray, under Section 105(c)(2) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 815 (c)(2), was not frivolously brought and ordered his temporary reinstatement. Thereafter, on September 17, 2009, upon agreement of the parties, this judge ordered the economic temporary reinstatement of Mr. Gray. Respondent North Fork Coal Corporation subsequently requested that the economic temporary reinstatement order be terminated.

The Secretary stated in her response, filed Nov. 23, 2009, that on Nov. 20, 2009, she sent written notification to Mr. Gray that, as a result of her investigation of his “Section 105(c)” complaint, she had decided not to file a “Section 105(c)(2)” complaint on his behalf. Under the circumstances, the Order of Economic Temporary Reinstatement must be dissolved and this temporary reinstatement proceeding must be dismissed. *Secretary of Labor on Behalf of Peter J. Phillips v. A&S Construction Co.*, 30 FMSHRC 1119 (Nov. 2008)(ALJ Barbour), *aff’d Peter S. Phillips v. A&S Construction Co.*, WEST 2009-1057-DM, 2009 WL 2971140 (FMSHRC Sept. 9, 2009).

ORDER

The Order of Temporary Economic Reinstatement, issued on September 17, 2009, is hereby dissolved, and this proceeding is dismissed.

A handwritten signature in black ink that reads "Gary Melick". The signature is written in a cursive style with a large, looped "G" and a distinct "M".

Gary Melick
Administrative Law Judge
(202) 434-9977

Distribution: (By Certified Mail and Facsimile or E-Mail)

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/eb