

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

**1730 K STREET, N.W., Room 6003**

**WASHINGTON, D. C. 20006-3867**

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June 7, 2001

LUE A. WILSON,	:	DISCRIMINATION PROCEEDING
Complainant	:	
	:	Docket No. CENT 2000-87-DM
	:	A. C. No. SC MD 99-15
v.	:	
	:	
SIDCO MINERALS,	:	
Respondent.	:	Mine: Sidco Mine

**ORDER OF DISMISSAL**

**Before: Judge Barbour**

On March 16, 2001, I issued an Order Lifting Stay, Order of Assignment, and Order to Show Cause why the above captioned case should not be dismissed. This case had been stayed pending the Commission's inquiry into the Complainant's allegations of misconduct against Mr. Bryce Denny, attorney for the operator. The Commission issued an order on November 2, 2000, terminating Mr. Lue Wilson's complaint against Mr. Denny (22 FMSHRC 1289), which led to the subsequent Order Lifting Stay in the present case.

The Complainant appears to allege that he was unlawfully terminated from his job in 1992. The Complainant did not file his complaint of discrimination with the Secretary until July 1999. This was long after the 60-day time limit required by the Act. The Commission has ruled that a late filing may be excused on the basis of "justifiable circumstance." *See Hollis v. Consolidation Coal Co.*, 6 FMSHRC 21 (January 1984); *Herman v. IMCO Serv.*, 4 FMSHRC 2135 (December 1982). In light of these cases, I ordered the parties to show cause why this case should not be dismissed as untimely.

I have not received a response to my March 16, 2001 order. Therefore, I find the record contains no explanation why this case was late-filed and there being no justifiable circumstances apparent for the late filing, it is **ORDERED** that this case is **DISMISSED**.

David F. Barbour  
Chief Administrative Law Judge

Distribution: (Certified Mail)

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Bryce J. Denny, Esquire, Cook, Yancey & Galloway, 333 Texas Street, Suite 1700, P. O. Box 2260, Shreveport, LA 72210-2260

Page Jackson, Chief Investigation Division, MSHA, Metal/Non-Metal, U.S. Department of Labor, 4015 Wilson Blvd., Arlington, VA 22203

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