

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

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

February 22, 1999

SECRETARY OF LABOR,	:	DISCRIMINATION PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. KENT 99-61-D
on behalf of PAUL MIDDLETON,	:	
Complainant	:	BARB CD 98-19
v.	:	
	:	Mine No. 1
J & C MINING, L.L.C.,	:	Mine ID 15-17707
Respondent	:	

DECISION

Appearances: Brian W. Dougherty, Esq., Office of the Solicitor, U. S. Department of Labor, Nashville, Tennessee, for the Secretary;
Susan C. Lawson, Esq., Lawson & Lawson, Harlan, Kentucky, for the Respondent.

Before: Judge Weisberger

This case is before me based on a Complaint filed by the Secretary of Labor on behalf of Paul Middleton alleging that J & C Mining discriminated against him in violation of section 105 of the Federal Mine Safety and Health Act of 1977. The Secretary seeks personal relief on behalf of Middleton, and a civil penalty. The matter was scheduled for hearing, and was partially heard on January 19, 20, and 21, 1999.

On January 21, 1999, during a recess, the parties advised that they had reached a settlement of this matter, and J & C Mining made a motion to approve the settlement and dismiss the case. The parties presented the terms of the settlement on the record. After due consideration, the motion was granted as follows, with the exception of minor changes not of a substantive nature.

The motion is granted. I have considered carefully the terms of the motion. I find that the settlement agreement entered into the record to be a very fair and just disposition of the issues. This conclusion is based upon my review of the terms of the settlement, along with a consideration of the entire record that has been presented.

ORDER

The terms of the settlement are approved, and it is **ORDERED** that (1) the record in this case be sealed; (2) Respondent pay a civil penalty of \$1,000 within 30 days of this decision; (3) the parties shall abide by all of the terms of the settlement agreement; and (4) that this case be **DISMISSED** with prejudice.

Avram Weisberger
Administrative Law Judge

Distribution:

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