

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
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FALLS CHURCH, VIRGINIA 22041

September 26, 1995

SECRETARY OF LABOR,	:	DISCRIMINATION PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. WEVA 94-357-D
ON BEHALF OF SAMUEL KNOTTS,	:	
Complainant	:	MORG CD 94-3
v.	:	
	:	Coalbank Fork No. 12
TANGLEWOOD ENERGY, INC.,	:	
FERN COVE, INC.,	:	
RANDY BURKE, AND RANDALL KEY,	:	
Respondents	:	

DECISION

Appearances: James V. Blair, Esq., Office of the Solicitor,
U. S. Department of Labor, Arlington, Virginia,
for the Secretary;
Paul O. Clay, Jr., Esq., Fayetteville,
West Virginia, for Respondents.

Before: Judge Maurer

On June 20, 1995, I found that the respondents had violated section 105(c) of the Act by discharging the complainant on January 28, 1994. I retained jurisdiction pending a final decision on damages.

After reconsideration of the entire trial record and the parties' post-trial submissions on the issue of damages, I find the respondents jointly and severally liable for the payment of damages in the following particulars:

a. Samuel Knotts is entitled to back pay in the total amount of \$20,760 less \$3640 which he received in state unemployment benefits, or \$17,120 net back pay;

b. Samuel Knotts is entitled to costs of \$508;

c. Samuel Knotts is entitled to interest on the above two awards in the amount of \$1,762.80; and

d. The Secretary of Labor is entitled to a civil penalty in the amount of \$1000 for the violation of the Mine Act.

The Secretary sought a civil penalty of \$25,000 in this case which I find to be clearly unwarranted. This was a relatively close ~~Amixed-motives~~ case where the complainant prevailed by the thinnest of margins. The record also indicates that the respondents herein are experiencing serious financial difficulties in the coal mining business including several hundred thousand dollars in unpaid civil penalties. These difficulties, combined with the back pay, costs, and interest being awarded to the complainant herein, lead me to conclude that \$1000 is an appropriate civil penalty pursuant to the criteria contained in section 110(i) of the Act. I also believe that the total monetary award to the complainant in this case is itself a serious disincentive against future violations of the discrimination provisions of the Mine Act by these respondents.

ORDER

1. Respondents **ARE ORDERED TO PAY** the complainant the amounts set forth herein as back pay, costs, and interest awards within 30 days of this order.

2. Respondents **ARE ORDERED TO PAY** the Secretary of Labor the amount set forth above as a civil penalty within 30 days of the date of this order.

3. This Decision and the Decision of June 20, 1995, together constitute my final disposition of the issues in this proceeding. Upon payment of the amounts referred to in Paragraph Nos. 1 and 2, above, this case **IS DISMISSED**.

Roy J. Maurer
Administrative Law Judge

Distribution:

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