

CCASE:  
MSHA V. WESTRICK COAL  
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FEDERAL MINE SAFETY & HEALTH REVIEW COMMISSION  
WASHINGTON, D.C.  
July 20, 1988

SECRETARY OF LABOR  
MINE SAFETY AND HEALTH  
ADMINISTRATION

v. Docket No. PENN 88-21

WESTRICK COAL CO.

BEFORE: Doyle, Lastowka, and Nelson, Commissioners

ORDER

BY: Doyle, Lastowka, and Nelson, Commissioners

In this civil penalty proceeding respondent Westrick Coal Company ("Westrick") failed to timely respond to the administrative law judge's pre-hearing order. Accordingly, on June 30, 1988, the judge issued an order requiring Westrick to respond by July 11, 1988 or to show cause why the matter should not be dismissed. On July 11, 1988, Westrick, who is acting without an attorney, wrote to the judge in response to the show cause order. The letter was mailed on July 13, 1988, but was not received by the judge until July 18, 1988. In the meantime, on July 15, 1988, the judge found Westrick in default, dismissed the proceeding, and ordered Westrick to pay the assessed civil penalty. Because his jurisdiction over this matter had ended with issuance of the default order, the judge forwarded Westrick's response to the Commission.

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In order that the judge may consider Westrick's response to his previous orders, we vacate the judge's default order and remand for further proceedings.

Distribution

Raymond Westrick  
Westrick Coal Company  
R.D. 1, Box 457  
Patton, Pennsylvania 16668

Judith Horowitz, Esq.  
Office of the Solicitor  
U. S. Department of Labor  
14480 Gateway Bldg.  
3535 Market St.  
Philadelphia, PA 19104

Administrative Law Judge Avram Weisberger  
Federal Mine Safety & Health Review Commission  
5203 Leesburg Pike, Suite 1000  
Falls Church, Virginia 22041