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MSHA V. WILMOT MINING  
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FEDERAL MINE SAFETY & HEALTH REVIEW COMMISSION  
WASHINGTON, D.C.  
June 20, 1988

SECRETARY OF LABOR,  
MINE SAFETY AND HEALTH  
ADMINISTRATION (MSHA)

v. Docket No. LAKE 85-47

WILMOT MINING COMPANY

BEFORE: Ford, Chairman; Backley, Doyle, Lastowka and Nelson,  
Commissioners

ORDER

BY THE COMMISSION:

On May 17, 1988, the United States Court of Appeals for the Sixth Circuit issued its opinion in this matter, styled Wilmot Mining Company v. Secretary of Labor, etc., No. 87-3480 (per curiam). The Commission's decision, reported at 9 FMSHRC 684 (April 1984), was affirmed in part, reversed in part, and remanded for further proceedings.

In relevant part, the Court concluded that substantial evidence did not support the Commission's determination, for civil penalty assessment purposes, of negligence with respect to the operator's violation of 30 C.F.R. § 77.403(a). The Court remanded the case to the Commission for reconsideration of the civil penalty assessment for that violation. In accordance with the Court's order, we remand this matter to the Commission administrative law judge originally assigned for further proceedings consistent with the Court's decision.

Joyce A. Doyle Commissioner

L. Clair Nelson, Commissioner