

CCASE:
RICKY HAYS V. LEECO
DDATE:
19920922
TTEXT
September 22, 1992
RICKY HAYS

v. Docket No. KENT 90-59-D

LEECO, INC.

BEFORE: Ford, Chairman; Backley, Doyle, Holen and Nelson, Commissioners
ORDER

BY THE COMMISSION:

This discrimination case arising under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. • 801 et seq. (1988)("Mine Act"), is on remand to the Commission from the United States Court of Appeals for the District of Columbia Circuit. Leeco, Inc. v. Ricky Hays & FMSHRC, 965 F.2d 1081 (1992), aff'g, 13 FMSHRC 670 (April 1991)(ALJ). (The judge's decision became a final decision of the Commission through operation of the statute. 30 U.S.C.

□ 823(d)(1).) The Court remanded the case to the Commission "for reconsideration and, if appropriate, an explanation of how Hays' conduct qualifies as a protected activity under section 105(c) of the Mine Act." 965 F.2d at 1085. On July 27, 1992, the Commission received a certified copy of the judgment from the Court, in lieu of a formal mandate, remanding this proceeding to the Commission.

On August 3, 1992, counsel for complainant Ricky Hays filed a motion requesting that this proceeding on remand be dismissed on the basis that "Hays and Leeco have entered into a settlement agreement of this matter." Oversight of proposed settlements is an important aspect of the Commission's adjudicative responsibilities under the Mine Act and is, in general, committed to the Commission's sound discretion. Birchfield Mining Co., 11 FMSHRC 1428, 1430 (August 1989); UMWA v. Utah Power and Light Co., 12 FMSHRC 1548, 1554

(August 1990).

~1568

Accordingly, we remand this matter to Judge Koutras to consider Hays' Motion to Dismiss and, if necessary, for further proceedings consistent with the Court's opinion.

Ford B. Ford, Chairman
Richard V. Backley, Commissioner
Joyce A. Doyle, Commissioner
Arlene Holen, Commissioner
L. Clair Nelson, Commissioner