

CCASE:  
UMWA (DAN NELSON) V. SOL (ROBERT KIYKENDALL)  
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March 22, 1993

UNITED MINE WORKERS OF AMERICA,	:	
ON BEHALF OF DAN NELSON	:	
	:	
v.	:	Docket Nos. SE 88-92-D
	:	SE 88-93-D
SECRETARY OF LABOR,	:	
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	
AND ROBERT KIYKENDALL	:	
	:	
and	:	
	:	
UNITED MINE WORKERS OF AMERICA,	:	
ON BEHALF OF DAN NELSON,	:	
RONALD SONEFF, TOMMY BOYD,	:	
STAN ODOM, AND CARROLL JOHNSON	:	
	:	
v.	:	
	:	
SECRETARY OF LABOR,	:	
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	
AND JOHN WEEKLY AND	:	
WILLARD (GENE) QUERRY	:	

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

ORDER

BY THE COMMISSION:

The United Mine Workers of America ("UMWA") filed these discrimination complaints pursuant to the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801 et seq. (1988), alleging that certain officials of the Department of Labor's Mine Safety and Health Administration ("MSHA") had failed to protect the confidentiality of miners who had reported violations of MSHA's safety standards. The UMWA requested an order directing MSHA to stop disclosing to mine operators the names of miners reporting safety violations and sought assessment of civil penalties for MSHA's alleged violations of section 105(c) of the Mine Act, 30 U.S.C. 815(c). In an unpublished order dated February 14, 1992, Administrative Law Judge Avram Weisberger dismissed the UMWA's complaints on the basis of the Commission's decision in Wagner v.

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Pittston Coal Group, 12 FMSHRC 1178 (June 1990), aff'd mem. sub. nom. Wagner v. Martin, No. 91-2025 (4th Cir. Nov. 5, 1991). The Commission granted the UMWA's petition for discretionary review and, at the parties' request, stayed this matter in April 1992, pending completion of their settlement negotiations.

On March 8, 1993, the UMWA filed a motion to dismiss this matter on the basis that the parties have reached a settlement agreement and that it no longer wishes to proceed with this case. The motion states that MSHA has issued an internal memorandum "reaffirming MSHA's policy that confidentiality be maintained during investigations of safety or health complaints." The motion states further that MSHA has agreed to investigate all reported violations of this policy.

Upon consideration of the motion and on the basis of the UMWA's representations, our prior stay is dissolved and this proceeding is dismissed.

Arlene Holen, Chairman

Richard V. Backley, Commissioner

Joyce A. Doyle, Commissioner

L. Clair Nelson, Commissioner