

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

1730 K STREET NW, 6TH FLOOR
WASHINGTON, D.C. 20006

January 19, 2001

SECRETARY OF LABOR,	:	
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA)	:	
on behalf of GRANT NOE, JR.	:	
	:	
v.	:	Docket No. KENT 99-248-D
	:	
J & C MINING, L.L.C., and	:	
MANALAPAN MINING COMPANY, INC.	:	

BEFORE: Jordan, Chairman; Riley, Verheggen, and Beatty, Commissioners

ORDER

BY THE COMMISSION:

In this discrimination proceeding arising under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq. (1994) (“Mine Act”), Administrative Law Judge Gary Melick concluded that Grant Noe, Jr.’s refusal to transfer from the first shift to the third shift was not protected, and that J & C Mining, L.L.C. did not constructively discharge Noe in violation of section 105(c)(1) of the Mine Act, 30 U.S.C. § 815(c)(1). 22 FMSHRC 404, 410 (Mar. 2000) (ALJ). The judge consequently dismissed Noe’s discrimination complaint. *Id.* at 411. On April 25, 2000, the Commission granted the Secretary’s petition for discretionary review challenging the judge’s decision.

On December 4, 2000, the parties filed a Joint Motion For An Order To Approve Settlement (“Joint Motion”) and a General Release And Agreement (“Agreement”). In light of the parties’ agreement to the terms of the settlement, we dismiss this matter and grant the parties’ request to maintain the confidentiality of the Agreement to the extent permitted by law.

Accordingly, this proceeding is dismissed.

Mary Lu Jordan, Chairman

James C. Riley, Commissioner

Theodore F. Verheggen, Commissioner

Robert H. Beatty, Jr., Commissioner

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