

CCASE:
SOL (MSHA) v. YOUGHIOGHENY & OHIO COAL
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Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges

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

CIVIL PENALTY PROCEEDING

Docket No: LAKE 84-98
A.O. No: 33-00968-03568

Nelms No. 2 Mine

v.

YOUGHIOGHENY & OHIO COAL CO.,
RESPONDENT

DECISION

Appearances: Patrick M. Zohn, Esq., Office of the Solicitor,
U.S. Department of Labor, Cleveland, Ohio,
for Petitioner;
Robert C. Kota, Esq., St. Clairsville, Ohio,
for Respondent

Before: Judge Kennedy

This matter came on for an evidentiary hearing in Wheeling, West Virginia on May 30 and 31, 1985. At the conclusion of the evidence the trial judge entered a tentative bench decision (Tr. 408-409) finding the two violations charged did, in fact, occur and that the penalties warranted were \$1,000 for Citation 2203748 and its companion closure order and \$950 for Citation 2327363.

Upon receipt of the transcript, the trial judge issued an order to show cause why the tentative decision should not be confirmed as the final disposition of this matter. The operator having failed to show such cause, it is ORDERED that the tentative decision of May 31, 1985 be, and hereby is, ADOPTED and CONFIRMED as the final disposition of this case. It is FURTHER ORDERED that the operator pay the amount of the penalty found warranted, \$1,950, on or before Monday, August 26, 1985.

Joseph B. Kennedy
Administrative Law Judge