

CCASE:

U.M.W.A. V. WYOMING FUEL

DDATE:

19900706

TTEXT:

Federal Mine Safety and Health Review Commission (F.M.S.H.R.C.)
Office of Administrative Law Judges

UNITED MINE WORKERS OF AMERICA
ON BEHALF OF
GILBERT ROYBAL,
COMPLAINANT

DISCRIMINATION PROCEEDING

Docket No. WEST 90-118-D
DENV CD 90-01

v.

Golden Eagle Mine

WYOMING FUEL COMPANY,
RESPONDENT

ORDER

On July 5, 1990, the United Mine Workers of America on behalf of Filbert Roybal, Complainant, filed a motion for my recusal, stating that Wyoming Fuel Company attorney Lawrence J. Corte would be a witness in the case and that the credibility of this local (Denver) attorney "will constitute a crucial issue" in this case.

Recusal of a Mine Safety and Health Review Commission Judge is governed by Commissioner Procedural Rule 81 (29 C.F.R. 2700.81, which provides as follows:

2700.81 Disqualification

(a) Withdrawal generally. A Commissioner or Judge may withdraw from a proceeding whenever he deems himself disqualified.

(b) Request to withdraw. Any party may request a Commissioner, or the Judge (at any time following his designation and before the filing of his decision), to withdraw on grounds of personal bias or disqualification, by filing promptly upon discovery of the alleged facts an affidavit setting forth in detail the matters alleged to constitute grounds for disqualification.

(c) Procedure if Judge does not withdraw. If the Judge does not disqualify himself and withdraw from the proceeding, he shall so rule upon the record, stating the grounds for his ruling and shall proceed with the hearing, or, if the hearing has been completed he shall proceed with the issuance of his decision, unless the Commission stays the hearing or further proceedings by granting a petition for interlocutory review.

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After consideration of the matter, upon my own motion, pursuant to the Commission Procedural Rule 81 (29 C.F.R. 2700.81, I hereby disqualify myself and withdraw from this proceeding.

August F. Cetti
Administrative Law Judge