

CCASE:
DOTSON & RIFE COAL V. SOL (MSHA)
DDATE:
19930106
TTEXT:

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
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FALLS CHURCH, VIRGINIA 22041

DOTSON & RIFE COAL CO., INC.,) CONTEST PROCEEDINGS
 Contestant)
 v.) Master Docket No. 91-1
) Docket No. KENT 91-670-R
 SECRETARY OF LABOR,) through KENT 91-678-R
 MINE SAFETY AND HEALTH)
 ADMINISTRATION (MSHA),) Citation Nos. 9858724
 Respondent) through 9858732; 4/4/91
)
) Mine No. 1
) Mine ID 15-05417
)
 SECRETARY OF LABOR,) CIVIL PENALTY PROCEEDING
 MINE SAFETY AND HEALTH)
 ADMINISTRATION (MSHA),) Docket No. KENT 91-1200
 Petitioner) A.C. No. 15-05417-03532D
 v.)
) Mine No. 1
 DOTSON & RIFE COAL CO., INC.,)
 Respondent)

ORDER OF DISMISSAL

Before: Judge Broderick

On December 8, 1992, the Secretary filed a motion to dismiss these proceedings on the grounds that on August 12, 1991, the Respondent Dotson & Rife Coal Company and Jimmy Dotson, principal of Respondent entered into plea agreements, agreeing to plead guilty to charges of conspiracy to defraud an agency of the United States in connection with the civil violations charged herein. Respondent contracted with Triangle Research to handle its dust sampling program. Triangle's principal and agent admitted falsifying the samples submitted to MSHA and admitted that on numerous occasions they blew air on the filtered surfaces of manufactured dust samples. Harry White and Ronald Ellis of Triangle have been convicted of defrauding the Government and have received prison sentences.

On May 8, 1992, Judge Joseph M. Hood, of the Eastern District of Kentucky, sentenced Dotson & Rife Coal Company to pay a fine of \$25,000 and to 2 years probation. Jimmy Dotson was sentenced to 2 years probation, 3 months home detention, and 3 months community service. As part of the plea agreement the Secretary agreed to move to dismiss pending civil penalty

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proceedings against Respondent for violations of the laws governing the dust sampling program.

I conclude that under the circumstances, dismissal of these proceedings effectuates the purposes of the Mine Act.

Accordingly, these proceedings are DISMISSED.

James A. Broderick
Administrative Law Judge

Distribution:

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Hand delivered to Lead Defense Counsel Committee

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