

CCASE:
DISCIPLINARY PROCEEDING
DDATE:
19860108
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FMSHRC-WDC
JAN 8, 1986

DISCIPLINARY PROCEEDING Docket No. D 86-1

BEFORE: Ford, Chairman; Backley, Doyle, Lastowka and
Nelson, Commissioners

DIRECTION FOR REVIEW AND ORDER

BY THE COMMISSION:

On December 4, 1985, Commission Administrative Law Judge George A. Koutras issued a decision in White Oak Coal Co., FMSHRC Docket No. VA 85=21, in which he held the respondent in default and, pursuant to Commission Procedural Rule 80, 29 C.F.R. § 2700.80, referred to the Commission for possible disciplinary proceedings the failure of the respondent's counsel to appear at the scheduled hearing. The respondent's counsel has filed a timely petition for discretionary review seeking review concerning only the judge's disciplinary referral.

The petition for review is granted. The referral is severed from the proceedings on the merits, is assigned the above caption and docket number, and is referred to the Chief Administrative Law Judge for assignment to an administrative law judge for appropriate proceedings under Rule 80(c), 29 C.F.R. § 2700.80(c). See, e.g., Disciplinary Proceeding, 7 FMSHRC 1957 (November 1985)(ALJ). If the attorney who is the subject of this proceeding is adversely affected or aggrieved by the subsequent

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decision of the judge appointed by the Chief Administrative Law Judge, he may file a notice of appeal with the Commission. 29 C.F.R. § 2700.80(d). The Commission expresses no view as to the merits of this referral.

Ford B. Ford, Chairman

Richard V. Backley, Commissioner

Joyce A. Doyle, Commissioner

James A. Lastowka, Commissioner

L. Clair Nelson, Commissioner

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Distribution

Timothy W. McAfee, Esquire
Cline, McAfee & Adkins
Professional Arts Building
1022 Park Avenue, N.W.
Norton, VA 24273-0698

Administrative Law Judge George A. Koutras
Federal Mine Safety and Health Review Commission
5203 Leesburg Pike, 10th Floor
Falls Church, Virginia 22041

Chief Administrative Law Judge Paul Merlin
Federal Mine Safety and Health Review Commission
1730 K Street, N.W.
Washington, D.C. 20006

Ann Rosenthal, Esquire
Office of the Solicitor
U.S. Department of Labor
4015 Wilson Boulevard
Arlington, Virginia 22203

Mark R. Malecki, Esquire
Office of the Solicitor
U.S. Department of Labor
4015 Wilson Boulevard
Room 1237A
Arlington, Virginia 22203