

CCASE:
MSHA V. SUGARTREE, TERCO & RANDAL LAWSON
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FMSHRC-WDC
FEB 10, 1987

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
on behalf of JAMES CORBIN,
ROBERT CORBIN, and A. C. TAYLOR

v. Docket No. KENT 84-255-D

SUGARTREE CORPORATION,
TERCO, INC., and RANDAL LAWSON

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

ORDER

BY THE COMMISSION:

In this discrimination case arising under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq. (1982), the Secretary of Labor has filed a Motion to Dismiss or Vacate Portion of direction for Review based on a Settlement Agreement submitted with the motion. For the reasons set forth below, the Secretary's motion is granted.

The above-captioned matter is pending on review before the Commission. The Secretary's motion is based on a settlement agreement that has been reached among the Secretary, complainants James and Robert Corbin, Terco, Inc., Randal Lawson, and other individuals associated with Terco. Subsequent to the 1984 discharges of the Corbins and A.C. Taylor at issue in the pending proceeding, the two Corbin complainants were reinstated (pursuant to a Commission judge's order of reinstatement) but were discharged again by Terco in 1986. These latter discharges became the subject of further discrimination complaints filed by the Secretary on the Corbins' behalf. FMSHRC Docket Nos. KENT 86-131-D & 86-132-D.

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As related in the Secretary's present motion, the parties in these latter cases have entered into a settlement of the charges involved in those cases. Their settlement involves expungement of references in the respondents' employment records to the discharges of the Corbins (including the 1984 discharges) and payment of \$50,000 in damages by the respondents to the Corbins. The Commission administrative law judge presiding over these latter cases approved the parties' settlement and dismissed these cases on January 6, 1987.

The settlement agreement is signed by the Corbins and, according to the Secretary's motion, the \$50,000 in damages 'has been paid.' In the settlement agreement, the Corbins waive any right to employment reinstatement with Terco. Further, the Secretary agrees to "forego any enforcement action with regard to the award made on [the Corbins] behalf" in the proceeding pending before the Commission, but to "take all action necessary to enforce the award on behalf of A.C. Taylor," who is not a party to the settlement agreement. Based on the assertion that the Corbins, Terco, Randal Lawson, and others associated with Terco have now resolved their differences, the Secretary moves to vacate or dismiss that portion of the Commission's direction for review in the pending matter pertaining to the liability and remedial issues affecting the Corbins.

In light of the above, and upon consideration of the Secretary's motion, we grant the Secretary's motion. That portion of the Commission's direction for review in the instant matter pertaining to liability and personal remedy issues affecting the Corbins is hereby dismissed. We emphasize that all liability issues (including the question of successorship) and all personal remedy issues insofar as they affect the remaining complainant, A.C. Taylor, remain for decision.

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For the foregoing reasons, the Secretary's motion is granted on the terms specified above.

Ford B. Ford, Chairman

Richard V. Backley, Commissioner

Joyce A. Doyle, Commissioner

James A. Lastowka, Commissioner

L. Clair Nelson, Commissioner

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