

CCASE:
MSHA V. SUGARTREE, TERCO & RANDAL LAWSON
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FMSHRC-WDC
July 16, 1986

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

ORDER

BY THE COMMISSION:

In this matter pending on review, the Secretary of Labor has filed a Motion for Immediate Reinstatement of complainants James and Robert Corbin. Respondent Terco, Inc. ("Terco"), has filed an opposition to the motion.

Pursuant to the decisions of the Commission administrative law judge below sustaining the Secretary's complaint of discriminatory discharge, both Corbins were reinstated by Terco in January 1986. Subsequently, Robert was discharged and James was laid off by Terco. Both Corbins have filed further discrimination complaints with the Secretary concerning their subsequent separations from employment. 30 U.S.C. § 815(c)(2).

The Secretary has not made a clear showing, nor do we perceive that an order of reinstatement is warranted at this time. The Secretary's motion and Terco's response disclose conflicting factual assertions surrounding the original reinstatements and the subsequent

discharge and layoff. Under the circumstances presented, we conclude that an order of reinstatement at this stage of the present proceeding is inappropriate.

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Accordingly, the Secretary's motion is denied. The Commission, however, will expedite the review process in the instant matter.

Ford B. Ford, Chairman

Richard V. Backley, Commissioner

Joyce A. Doyle, Commissioner

James A. Lastowka, Commissioner