

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
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July 29, 2021

SECRETARY OF LABOR
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
on behalf of JASON HARGIS,
Complainant,

v.

VULCAN CONSTRUCTION
MATERIALS, LLC,
Respondent

TEMPORARY REINSTATEMENT
PROCEEDING

Docket No. SE 2021-0163
MSHA Case No.: BARB-CD-2021-02

Mine: Wilson County Quarry
Mine ID: 40-00131

**ORDER GRANTING TEMPORARY ECONOMIC REINSTATEMENT
OF JASON HARGIS**

Before: Judge Young

Pursuant to Section 105(c)(2) of the Federal Mine Safety and Health Act of 1977 (“Act”), 30 U.S.C. § 801, et. seq., and 29 C.F.R. § 2700.45, the Secretary of Labor (“Secretary”) on July 16, 2021, filed an Application for Temporary Reinstatement of miner Jason Hargis (“Complainant”) to his former position with Vulcan Construction Materials, LLC, (“Respondent”) at Respondent’s mine pending final hearing and disposition of the case.

According to Commission Rule 45, a request for hearing must be filed within 10 days following receipt of the Secretary’s application for temporary reinstatement. 29 C.F.R. § 2700.45(c). The Secretary’s certificate of service states that the Application for Temporary Reinstatement of Complainant was served on Respondent by electronic mail on July 16, 2021. On a July 26, 2021 conference call, the Respondent told this Court that it would not be seeking a hearing in this matter.

On July 28, 2021, the parties further submitted a Joint Motion to Approve Settlement Regarding Temporary Economic Reinstatement. The Agreement sets forth the terms of the temporary economic reinstatement, including Complainant’s rate of pay and benefits, the date that economic reinstatement shall begin, and other terms, which are incorporated into this Order by reference.

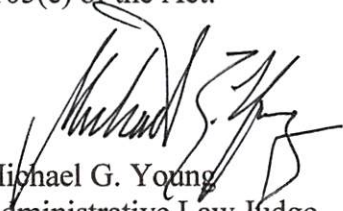
The Secretary has found that the Complaint was not frivolously brought and has provided evidence supporting that determination. The Respondent does not contest the determination. Therefore, consistent with Section 105(c)(2) of the Act, the temporary economic reinstatement of Jason Hargis is granted.

ORDER

It is hereby **ORDERED** that **Jason Hargis** be **TEMPORARILY ECONOMICALLY REINSTATED**, effective July 27, 2021. Hargis shall receive the wages he was formerly paid, as well as other terms of his employment, as set forth in the Agreement.

This Order **SHALL** remain in effect until such time as there is a final determination in this matter by hearing and decision, approval of settlement, or other order of this court or the Commission.

I retain jurisdiction over this temporary reinstatement proceeding. 29 C.F.R. § 2700.45(e)(4). The Secretary **SHALL** provide a report on the status of the underlying discrimination complaint **as soon as possible**. Counsel for the Secretary **SHALL** also **immediately** notify my office of any settlement or of any determination that Vulcan Construction Materials, LLC, did not violate Section 105(c) of the Act.


Michael G. Young
Administrative Law Judge

Distribution (Via Certified Mail & E-mail)

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