

News Release



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Coal miner terminated from job at Massey operation ordered reinstated *Safety concerns voiced by miner a protected activity, says judge*

ARLINGTON, Va. – The U.S. Department of Labor’s Mine Safety and Health Administration today announced that an administrative law judge with the Federal Mine Safety and Health Review Commission ordered the temporary reinstatement of a miner who was discharged from his job within three weeks of complaining about hazardous workplace conditions. Ricky Lee Campbell, who worked as a shuttle car operator and bolter for several mines operated by Massey Energy Co., was fired April 23, 2010, after working less than three weeks at Marfork Coal Co. Inc.’s Slip Ridge Cedar Grove Mine in Raleigh County, W.Va.

Campbell began working for Marfork at Parker Peerless Mine in November 2009. In January 2010, he was transferred to Upper Big Branch Mine, where he worked until late March. Campbell briefly returned to Parker Peerless before starting work at Slip Ridge on April 5, 2010. According to Campbell, he voiced safety concerns about the shuttle car he was assigned to operate, citing faulty brakes and tram pedals. Campbell reported the problem to members of mine management and also shut down the shuttle car because of the problems. Campbell alleges that his safety complaints were disregarded. On April 7, Campbell also criticized safety practices at the Upper Big Branch Mine during a television interview. On April 14, Campbell was suspended subject to discharge and dismissed April 23.

Campbell filed a complaint under section 105(c) of the Federal Mine Safety and Health Act of 1977 that prohibits a mine operator from retaliating against a miner for exercising protected rights, including making safety complaints. The purpose of the protection is to encourage miners “to play an active part in the enforcement of the Mine Act” recognizing that, “if miners are to be encouraged to be active in matters of safety and health, they must be protected against any possible discrimination which they might suffer as a result of their participation.”

On May 17, the secretary of labor filed an application for temporary reinstatement on Campbell’s behalf. A miner is entitled to temporary reinstatement if his complaint of discrimination is “not frivolously brought.” The secretary’s investigation into Campbell’s discharge is ongoing, and no determination has been made regarding whether a violation of the act occurred or whether the secretary will file a discrimination case on the full merits.

In his ruling, Administrative Law Judge L. Zane Gill found that the secretary had “established ... that there is sufficient nexus between Campbell’s protected activity and the adverse action, i.e., his suspension and ultimate termination. The Secretary’s evidence is sufficient to establish that mine management knew or should have known that Campbell was complaining about faulty equipment.” The judge ordered that Campbell be temporarily reinstated to the job he held prior to his termination and that reinstatement shall continue until there has been a final determination on the merits of Campbell’s case.

“No miner should have to risk his life for his job,” said Joseph A. Main, assistant secretary of labor for mine safety and health. “The law is clear in its protections toward miners whose actions may lead to retaliation.”

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