

News Release



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MSHA files complaint with review commission over firing of Massey miner *Suit alleges retaliation in employee's discharge*

ARLINGTON, Va. – The U.S. Department of Labor's Mine Safety and Health Administration today filed a complaint with the Federal Mine Safety and Health Review Commission alleging that a miner was discharged from his job in retaliation for engaging in protected safety activities. 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 fewer than three weeks at Marfork Coal Co. Inc.'s Slip Ridge Cedar Grove Mine in Raleigh County, W.Va.

The complaint of retaliation alleges that Marfork violated the Federal Mine Safety and Health Act of 1977, also known as the Mine Act, by discharging Campbell, and requests permanent reinstatement, back wages, a civil penalty of \$20,000 and other appropriate relief. Two months ago, MSHA filed a separate action on Campbell's behalf alleging that Campbell's complaint was "not frivolous" and asking that he be temporarily reinstated to his job. Following a hearing, Administrative Law Judge L. Zane Gill granted the request and ordered Campbell's temporary reinstatement.

"All miners – all workers – deserve basic protections on the job," said Joseph A. Main, assistant secretary of labor for mine safety and health. "While this case is being tried, we want to send a clear message that operators who punish employees for expressing concerns about safety conditions should be held accountable for their actions."

Campbell worked at three different Massey Energy mines from late 2009 until his April 2010 discharge, beginning at Marfork Coal's Parker Peerless Mine. In January 2010, he was transferred to Performance Coal Co.'s Upper Big Branch Mine, where he worked until late March. Campbell briefly returned to Parker Peerless before starting work at Marfork Coal's Slip Ridge Cedar Grove Mine on April 5, the day of the explosion at Upper Big Branch Mine.

On April 7, Campbell returned to the Upper Big Branch Mine site, where he provided a television interview to members of the media. During the interview, which was subsequently broadcast and reproduced in news articles, Campbell criticized the safety conditions and practices at Upper Big Branch that he experienced while working there.

During his employment at Slip Ridge Cedar Grove Mine, Campbell voiced safety concerns to mine management about the shuttle cars he was assigned to operate. Hel alleges that his safety complaints about the shuttle cars were disregarded. Campbell was suspended and subsequently dismissed from his job on April 23.

The complaint was filed under section 105(c) of the Mine Act, a provision 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."

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