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Armstrong Coal Co.'s lawsuit against miner violates Mine Act, judge rules

ARLINGTON, Va. – An administrative law judge has ruled that a Madisonville, Ky., mining company violated the anti-discrimination provisions of the Federal Mine Safety and Health Act of 1977 when it sued a miner for filing a discrimination complaint with the Mine Safety and Health Administration following his job termination, MSHA announced today.

In his decision, Administrative Law Judge Jerold Feldman of the Federal Mine Safety and Health Review Commission ordered Armstrong Coal Co., Inc., and Armstrong Fabricators Inc. (collectively, "Armstrong") to withdraw its civil tort suit for wrongful use of civil proceedings. The Armstrong suit had been filed in the Commonwealth of Kentucky's Muhlenberg Circuit Court against miner Reuben Shemwell. Judge Feldman held that Armstrong's state court suit unlawfully interfered with Shemwell's rights under the Mine Act, and that the suit was preempted by the Mine Act and was baseless and retaliatory.

The case arose after Armstrong discharged Shemwell in September 2011. The miner filed a complaint with MSHA, a U.S. Department of Labor agency, claiming that the discharge was in retaliation for his safety activities at the mine. Attorneys for the secretary of labor filed an application for temporary reinstatement on his behalf. After a hearing, Judge Feldman found that Shemwell's complaint was not frivolously brought and ordered him to be temporarily reinstated.

Following MSHA's decision not to pursue Shemwell's discrimination case on the merits, Armstrong filed a civil tort suit against him in state court, seeking compensatory and punitive damages. The action was based on Armstrong's assertion that Shemwell intentionally initiated a false discrimination action for the sole purpose of imposing litigation costs on Armstrong. The company maintained that "the First Amendment right to file...a petition in court trumps all other interests, statutes or rights."

Attorneys for the secretary of labor argued that defending against such a state court action could be "financially devastating" to a miner, and would "dissuade a reasonable miner from making or supporting a charge of discrimination." The attorneys for the secretary said the state civil action is not protected under the First Amendment right to petition because it is federally preempted by the Mine Act. Even if it were not in conflict with the Mine Act, they argued, the civil suit is not worthy of First Amendment protection because it is baseless and retaliatory.

"To allow a state court to grant monetary damages against a miner for filing a safety-related complaint, a remedy that was authorized by Congress in the Mine Act, would undermine the goal the Act seeks to accomplish – miner participation in safety matters," said Judge Feldman. He also stated, "Miners must be free to file safety-related complaints regardless of whether they are ultimately determined to be meritorious."

"We are pleased the judge recognized, in the Armstrong Coal decision, that the judicial process cannot be used to violate the rights of a miner under the Mine Act," said Joseph A. Main, assistant secretary of labor for mine safety and health.

According to Section 105(c) of the Federal Mine Safety and Health Act of 1977, a miner cannot be discharged, discriminated against or interfered with in the exercise of statutory rights because he or she has engaged in a protected activity such as filing a complaint alleging a health or safety violation, or refusing to work under unsafe or unhealthy conditions. The Act provides that a miner who has a non-frivolous claim of discrimination may be temporarily reinstated to his job pending final order on the complaint.

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