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Transcript of the Testimony of Bruce Brackett

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STATEMENT UNDER OATH
OF
BRUCE BRACKETT

taken pursuant to Notice by Alison Salyards, a Court Reporter and Notary Public in and for the State of West Virginia, at the National Mine Health and Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Tuesday, July 27, 2010, beginning at 1:48 p.m.

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ATTORNEY WILSON:

Good afternoon. My name is Bob Wilson.

I'm with the Office of the Solicitor, United States Department of Labor. With me is Erik Sherer with --- an investigator with the Mine Safety and Health Administration. Also, officials with the State of West Virginia and the Governor's independent team are present. Do you want to state your appearance, Terry?

MR. FARLEY:

Terry Farley, West Virginia Office of Miners' Health, Safety and Training.

MR. BRACKETT:

I think I've seen you somewhere before.

MR. FARLEY:

Oh, yeah.

MR. BRACKETT:

I'm the guy who used to make all the stickers for everybody up here.

MR. FARLEY:

Really?

MR. BRACKETT:

All them stickers they see on their hat years ago, I used to make them for everybody. They're

1 all big wheels now and have moved on. I made them for
2 Danny Meadows and Fred Wills and all them. I know all
3 of them.

4 MR. FARLEY:

5 Okay.

6 ATTORNEY WILSON:

7 John?

8 MR. O'BRIEN:

9 John O'Brien with the West Virginia
10 Office of Miners' Health, Safety and Training.

11 ATTORNEY WILSON:

12 Beth.

13 MS. SPENCE:

14 And I'm Beth Spence with the Governor's
15 independent investigation.

16 MR. BRACKETT:

17 I talked to the Governor with Tim.

18 ATTORNEY WILSON:

19 Okay. So today is July 27, 2010 and
20 we're here to conduct an interview with Bruce
21 Brackett. Mr. Brackett, the reason we asked you here
22 today is the State and MSHA and the Governor's team,
23 we're doing a joint interview process of anyone who
24 may have information pertaining to the Upper Big
25 Branch Mine and the events of April 5th, 2010. We

1 appreciate you coming in here today. You may have an
2 attorney or a personal representative present with
3 you. Do you have a representative with you?

4 MR. BRACKETT:

5 I don't need one, buddy. I've been
6 through one before and I told them I ain't done
7 nothing wrong. I don't need one.

8 ATTORNEY WILSON:

9 Okay.

10 MR. BRACKETT:

11 You know what I'm saying?

12 ATTORNEY WILSON:

13 Your statement is completely voluntary.

14 You may refuse to answer any question. I don't think
15 this is going to be very long, but if you need to take
16 a break, just let me know.

17 Your identity of this conversation will
18 be made public at the conclusion of the interview
19 process. After all witnesses are interviewed,
20 transcripts will be released to the public. If you
21 request that your identity remain confidential, we
22 will try and maintain that confidentiality to the
23 extent permitted by law, but if a judge orders us to
24 reveal your identity or if some law like the Freedom
25 of Information Act requires that we disclose that

1 information, we will have to do so. But you do have
2 the right to request ---

3 MR. BRACKETT:

4 Right.

5 ATTORNEY WILSON:

6 --- that your identity remain
7 confidential. Do you understand that?

8 MR. BRACKETT:

9 Oh, yeah.

10 ATTORNEY WILSON:

11 Okay. Do you have any questions about
12 that?

13 MR. BRACKETT:

14 Yeah. No, I mean, it doesn't matter to
15 me. But I knew too many guys. I mean, I like to know
16 what happened.

17 ATTORNEY WILSON:

18 Okay. After the investigation is
19 complete, MSHA will issue a report and that report
20 will include information that we obtained through
21 witness interviews like here today, so we appreciate
22 you coming in. We will be interviewing additional
23 witnesses, so please do not discuss your testimony
24 with anyone ---

25 MR. BRACKETT:

1 All right.

2 ATTORNEY WILSON:

3 --- outside of this room. A court
4 reporter will be recording the interview, so please
5 speak loudly and clearly. If we're referring to the
6 map, I ask that rather than you just say, well, we
7 were here up to this area, ---

8 MR. BRACKETT:

9 Uh-huh (yes).

10 ATTORNEY WILSON:

11 --- explain what you're referring to. We
12 were at Crosscut 20 up to 25 ---

13 MR. BRACKETT:

14 Okay. I see what you're saying.

15 ATTORNEY WILSON:

16 --- because when someone's reading
17 the ---.

18 MR. BRACKETT:

19 I'll try to.

20 ATTORNEY WILSON:

21 Okay. And we'll remind you.

22 MR. BRACKETT:

23 I'll tell you, I've been on nerve pills
24 since this happened, ---

25 ATTORNEY WILSON:

1 Yeah.

2 MR. BRACKETT:

3 --- you know, so I mean I'm there. I

4 done took one when I got off work and I just took one

5 before I got here, so my ---. I've been having, like,

6 messed up dreams and my wife's woke me up two or three

7 times, saying I'm saying leave them behind, leave them

8 behind. We've been married 28 years. I ain't never

9 talked in my sleep.

10 ATTORNEY WILSON:

11 All right.

12 MR. BRACKETT:

13 And I know Massey don't care how it's

14 affected people. That's just my opinion.

15 ATTORNEY WILSON:

16 Right.

17 MR. BRACKETT:

18 You know, I don't care if you write that

19 down or not. That's my opinion.

20 ATTORNEY WILSON:

21 We did send you a letter. I'll give you

22 another copy of the letter there.

23 MR. BRACKETT:

24 Yeah, right.

25 ATTORNEY WILSON:

1 That does have our contact information
2 there. If at any time after today you think of
3 additional information or you know of somebody else
4 who has information that they would like to provide,
5 please contact us at the contact information provided
6 there.

7 At the end of the interview we will give
8 you an opportunity. If there's anything else that you
9 want to add to the record or any information that you
10 think we should consider, we'll give you that
11 opportunity at the end. Also contained in that letter
12 is some information concerning your rights as a miner
13 under the Mine Act. And I encourage you to read
14 through that and to even go to MSHA's website at
15 www.msha.gov ---

16 MR. BRACKETT:

17 Okay. Thank you.

18 ATTORNEY WILSON:

19 --- and you can find out more about your
20 rights under the Mine Act. Terry?

21 MR. FARLEY:

22 Mr. Brackett, on behalf of the Office of
23 Miners' Health, Safety and Training I want to advise
24 you that the West Virginia State Law also protects
25 miners against potential discrimination for

1 participating in these type of interviews. I want to
2 pass along some contact information ---

3 MR. BRACKETT:

4 Okay.

5 MR. FARLEY:

6 --- in the event you should have any
7 problems. You got my business card, a phone number
8 for another guy who --- he's our lead underground
9 investigator, Mr. Bill Tucker.

10 MR. BRACKETT:

11 Yeah. That way I can give this to them
12 to prove I was here, too, because I told them I wasn't
13 working tonight.

14 MR. FARLEY:

15 Yeah.

16 MR. BRACKETT:

17 I told them I'm not going to stay up all
18 day with three hours sleep and go to work.

19 MR. FARLEY:

20 Yeah. If you have any issues, just give
21 us a call.

22 MR. BRACKETT:

23 Yeah.

24 ATTORNEY WILSON:

25 And you can use the letter that we've

1 given to you, also, as documentation ---

2 MR. BRACKETT:

3 Okay.

4 ATTORNEY WILSON:

5 --- that we requested you be here. Beth,

6 did you have anything you wanted to add? No? Okay.

7 Mr. Brackett, I'll ask you face the court reporter and

8 she will swear you in.

9 MR. BRACKETT:

10 Okay.

11 -----

12 BRUCE BRACKETT, HAVING FIRST BEEN DULY SWORN,

13 TESTIFIED AS FOLLOWS:

14 -----

15 ATTORNEY WILSON:

16 Mr. Brackett, would you please state your

17 full name for the record?

18 A. My full name is Bruce Gordon, that's G-O-R-D-O-N,

19 Brackett with two T's, B-R-A-C-K-E-T-T.

20 ATTORNEY WILSON:

21 And just for the record, would you

22 provide us with your mailing address and telephone

23 number?

24 A. It's the same you've got here. Do I need to say

25 it again?

1 ATTORNEY WILSON:

2 Okay.

3 A. (b) (7)(C)

4 (b) (7)(C) . Either way

5 it's going to get to me.

6 ATTORNEY WILSON:

7 All right. And just for the record, your

8 phone number?

9 A. (b) (7)(C) .

10 ATTORNEY WILSON:

11 Okay. Thank you. Erik Sherer's going to

12 start with the questioning.

13 A. Okay.

14 EXAMINATION

15 BY MR. SHERER:

16 Q. First of all, I want to thank you again for coming
17 down this afternoon, ---

18 A. Okay.

19 Q. --- Mr. Brackett. How long have you been employed
20 in the coal mining industry, roughly?

21 A. I started in '85, Maven Energy. Was probably out
22 for about a little over a year and ten months. We
23 were locked out in '93 when Maven went out of
24 business. And I went to Massey in December '94.

25 Q. Okay. And you've been with Massey since 1994?

1 A. Correct.

2 Q. How long did you work at Upper Big Branch Mine?

3 A. We weren't there long. We were transferred from
4 White Queen Mine.

5 Q. Do you recall about when that occurred?

6 A. Not exactly the month, day or nothing. What it
7 was was our mines mined out and they sent so --- they
8 kept so many people --- you know, just shifted people
9 from mines to mines.

10 Q. Sure, uh-huh (yes).

11 A. I can't tell you what day they sent us there, what
12 months it was. I just know we had --- I don't think
13 we was there much more than a year.

14 Q. Okay. So about a year at UBB?

15 A. Yeah, roughly.

16 Q. What portion of the mine did you primarily work
17 in?

18 A. To start out I was on what they call the Four
19 section ---

20 Q. Okay.

21 A. --- where Plumley Switch was.

22 Q. Okay. That's down in the south end of the mine?

23 A. Yeah, it was the closest to the portal. Yes.

24 Q. Sure. Did you ever get up in the northern end of
25 the mine where the longwall or the two development

1 sections were operating?

2 A. Later on I went there as a move boss and they ---
3 some other boy wanted it and they gave it to him, and
4 I went to fire bossing. And at one time I was up
5 there. I wouldn't know if it's on here. They had an
6 old belt line that they were having trouble with
7 keeping the structure in and --- wait a minute. No,
8 not down in here. That's the Glory Hole. So you come
9 down here. They had a thing called the Mother Drive.
10 I forget.

11 Q. It's right ---.

12 A. Is this the Mother Drive?

13 Q. Yeah, by the longwall?

14 A. Okay. Well, I know we went down this way. Let's
15 see. No, because this is the way to the Glory Hole,
16 ain't it? Okay. We went down this way, because this
17 is where the belt and track was together, I believe.

18 Q. Yeah, uh-huh (yes). So you're pointing to the
19 headgate of the current longwall?

20 A. Right, right. Well, it wasn't running then. They
21 were just trying to set it up, because they didn't
22 even have this cut through.

23 Q. Okay.

24 A. You know what I'm saying?

25 Q. Sure, uh-huh (yes).

1 A. And they put me up there with three guys, trying
2 to keep the structure in for about a month or so. But
3 I never did go up in here. The farthest I would go
4 was to the tailpiece.

5 Q. Okay.

6 A. Because my job was just to fire boss the belts and
7 what pumps they had over this way.

8 Q. Okay.

9 A. And then I would go out and do the rest of the
10 stuff. That was for a couple months.

11 Q. Okay. When was the last time you were at or near
12 the longwall? Do you recall? Was it within, say, the
13 past six months?

14 A. No, because I was off injured.

15 Q. Okay.

16 A. That's what I'm saying. When I was down in here
17 doing this, they were just bringing the longwall
18 equipment in.

19 Q. Okay.

20 A. I didn't even know what that thing was when they
21 brought it in. What do they call it, the shearer? I
22 had --- I was asking them what it was.

23 Q. Sure.

24 A. But I'd never been on a longwall system and I
25 didn't even know what those pans were and them things

1 they put the chain in. I never been on a mines that
2 had a longwall.

3 Q. Okay. So you were primarily down in the southern
4 part of the mine. Did you work on the day of the
5 accident, April 5th?

6 A. I got out six o'clock that morning.

7 Q. Six o'clock. So you'd worked Sunday night down in
8 the southern part of the mine?

9 A. No, no, no, no, out --- by then I was already out
10 here fire bossing this other side. I was only down in
11 here for, like ---.

12 Q. No, no, no, no, I mean you fire bossed the ---?

13 A. Yeah, this area.

14 Q. Okay.

15 A. Yeah.

16 Q. Southern portion of the mine on Sunday night prior
17 to the explosion?

18 A. Yeah, yeah.

19 Q. Okay. Do you recall anything that may have stood
20 out as being different or odd that night, that last
21 night that you fire bossed?

22 A. No, not in the areas we were at. No.

23 Q. Okay.

24 A. No.

25 Q. Did you hear anything that seemed unusual ---

1 A. No.

2 Q. --- over the mine phone?

3 A. No.

4 Q. Did you smell anything that smelled different?

5 A. No, not in the areas we were in. No.

6 MR. SHERER:

7 Okay. That's all the questions I've got.

8 Terry?

9 MR. FARLEY:

10 I don't think I have any.

11 ATTORNEY WILSON:

12 Let's go off the record.

13 OFF RECORD DISCUSSION

14 BY MR. SHERER:

15 Q. Okay. Mr. Brackett, you mentioned you were off
16 for an extended period of time with an injury.

17 A. Like, five days and six months.

18 Q. Okay. And you mentioned that you had, I think,
19 injured (b) (7)(C)

20 A. Yeah, it was the (b) (7)(C) that runs from
21 the back of your (b) (7)(C) .

22 Q. Uh-huh (yes).

23 A. The way the doctor explained it to me is like I
24 just took a straw and ripped it this (indicating) way.

25 Q. Oh, jeez.

1 A. And then I ripped --- behind (b) (7)(C) I tore that
2 ligament in two totally. And in front of my (b) (7)(C) I
3 tore another one. I was in a cast for four months and
4 they put me in one of them (b) (7)(C) looking things. And I
5 was in it for a --- well, I was still in the cast
6 during Christmas. And in January they took me out of
7 the cast and finally put me in a (b) (7)(C) thing. And
8 where I had been in the cast and (b) (7)(C) thing so
9 long, my (b) (7)(C) was turned.

10 Q. Oh, jeez.

11 A. And I was in rehab. My doctor was over at Scott
12 Orthopedic surgeons. And I had to go through rehab
13 and everything and they released me on --- well, no,
14 March the 9th. That's what it was. March the 9th is
15 when I went back to work.

16 Q. Okay. Were you offered light-duty work during
17 that recovery period?

18 A. Oh, there was no way I could do light-duty work.

19 Q. Okay.

20 A. No. My doctor didn't even want me (b) (7)(C) at
21 all.

22 Q. Oh, okay.

23 A. He said there was no way, no shape, no how.

24 Q. Okay. Are you satisfied with the treatment that
25 you received for that injury?

1 A. Well, honestly --- to be honest with you, I'm
2 salary and they tried to --- personally I thought they
3 treated me pretty shitty.

4 Q. Okay. The one that operated on ---?

5 A. I mean, don't care if she puts it on record or
6 not. That's truth.

7 Q. Yeah. Was there some disability pay?

8 A. Well, see, now, years ago I hurt my(b)(7)(C) at ---
9 when I worked for Marfork; right?

10 Q. Uh-huh (yes), sure.

11 A. And then they never --- it was nothing. Well,
12 then I ripped (b)(7)(C)

13 (b)(7)(C) right? And being salary I just got my
14 paycheck just like it was nothing; right? And when
15 they transferred us to UBB I didn't know they do it a
16 different way. Okay? The way they done it at UBB was
17 the company paid me half of my check; right? And I
18 was supposed to deal with some company called
19 Hartford. You ever heard of them?

20 Q. I'm not familiar with them.

21 A. Well, they would cut me the other half of my
22 check; right? And I'd have to stay on their ass
23 constantly to get my money. And they said it was my
24 responsibility to do all this paperwork shit. And I'm
25 supposed to be salary and they tell you when you're on

1 salary, if you're off and you're injured, you should
2 be paid just like you're --- and you shouldn't have to
3 fight for your pay. I didn't like the way I got
4 treated, no.

5 Q. Okay. Is that Hartford company --- do you know if
6 that's Workers' Compensation?

7 A. It's part of Massey's Workman Compensation, yes.
8 What it was, they said that ---. They cut --- they
9 said that they would pay me so much and that I had to
10 get --- Hartford would have to get approval. I called
11 the main office one time and said, look. They paid
12 me. I said now Hartford ain't paying me. What it
13 was, Massey would pay me half of my paycheck; right?

14 Q. Uh-huh (yes).

15 A. And the only way I could get the other half was
16 just a person that was my, what do they call it, agent
17 that I'm supposed to talk to would call them and
18 verify that they could cut me my check. And I stayed
19 on them all the time.

20 Q. Now, your agent, was that a Massey employee or was
21 that ---?

22 A. No, it was Hartford people.

23 Q. Okay.

24 A. Hartford would have to call the office; right, and
25 say, well, you can cut another half of his check. And

1 here --- and I'll tell you what. I got one --- I mean
2 excuse my language. I got one damn paycheck in
3 November, and I'm salary. I got mad and I called. I
4 said, how do you all expect me to live, you know what
5 I'm saying? And they cop a attitude on me, and I
6 said, look here. I called the office and I'll tell
7 you exactly what they told me at the office. Said if
8 I didn't correct the problem, I wouldn't get a
9 paycheck after the first year. Now, you know, that's
10 pretty dirty.

11 Q. Yeah.

12 A. You know, they tell you when you're salary, go on
13 salary. You're supposed to be paid where you miss a
14 day because you're salary; right? I didn't like the
15 way they treated me. (b)(7)(C)

16 (b)(7)(C)

17 Q. Do you know other salaried employees that had
18 gotten hurt that had similar problems?

19 A. Some do. It's just who they like, who they don't
20 like.

21 Q. Okay.

22 A. You know what I mean? All --- you know all
23 companies are like that.

24 Q. Sure, uh-huh (yes).

25 A. It ain't just Massey, it's everybody.

1 Q. Okay. How about the medical treatments? How was
2 that covered?

3 A. Well, they paid my bills, but I had to beg them to
4 send me to an orthopedic surgeon. I was off for five
5 weeks before they even sent me to my orthopedic
6 surgeon. That's the truth. Well, and I blame myself
7 for going to Boone Hospital, because that's a band-aid
8 stop. And I'll take the blame for that; right? But
9 you know, I'm (b) (7)(C). I just figured it was a (b) (7)(C)
10 (b) (7)(C). Be off a couple days, maybe light duty, go
11 back to work.

12 Well, when they done the x-ray they couldn't find
13 a broken bone; right? It was still swelled up, plenty
14 of pain, and I was off work for a while. And I said,
15 look, I've got to get back to work, you know what I
16 mean? I said, you all need to run me an MRI or
17 something; right? And it took them five weeks to
18 schedule me an MRI through that Hartford Company.

19 And then when I finally got the MRI approved, I
20 went to this other doctor. And why they never said
21 anything to me, I don't know, because he was getting
22 ready to retire in five weeks, you know what I mean?
23 And I'm serious. This is the truth. And I finally
24 ---. Well, my (b) (7)(C)

25 (b) (7)(C) My (b) (7)(C) said, look. You need to go

1 to that doctor right now and tell him you want all
2 your medical records. And I had to call the company,
3 Hartford. I forget who else. And they said that I
4 had to get approval and get paperwork and all this
5 stuff.

6 I went to the doctor and, you know, he was going
7 to charge me \$20 for all my papers work and that was
8 supposed to be free. Told me he was going to charge
9 me \$25 to get a copy of my MRI record, and that was
10 supposed to be free.

11 And I went over. I got all of the information
12 myself and he got mad at me, because I was asking for
13 my personal medical records. And you know by your
14 right, you have a right to get your medical records;
15 right?

16 So I finally got ahold of them and I said, look.
17 I need some help. I said, I'm not getting no better.
18 I need to go to a doctor that's going to help me so I
19 can back to work; right? They said would I go to ---
20 what's that place over in Charleston, Bone and Joint?
21 Well, they called them. They said they couldn't take
22 me. Why I don't know. I didn't ask.

23 And I said, look, buddy, I need some help. I
24 said, I'm not getting no better. Then they called me
25 back and they said, Mr. Brackett, would you go to

1 Huntington Scott Orthopedic surgeon? I said, buddy,
2 at this point right now I need to go to somebody. And
3 I was driving from ---. I live in ---. You know
4 where you all's federal mine building is in Uneeda?

5 Q. Uh-huh (yes).

6 ATTORNEY WILSON:

7 Yes.

8 A. (b) (7)(C)

9 Now, you think I had to drive from there to Huntington
10 just to get some therapy and get to a doctor who knew
11 what he was doing. And my doctor's name was (b) (7)(C)
12 (b) (7)(C) at Scott Orthopedic surgeons; right?

13 The day I walked in there ---. Boone only put me
14 in some kind of little strappy thing, no cast, no
15 nothing. He looked at me and he said, Mr. Brackett,
16 what took you so long to get over here? Red tape,
17 bull crap, you know what I'm saying? Just as soon as
18 he looked at me he put me in a cast. And he told me I
19 wasn't supposed to been walking on it. I wasn't
20 supposed to been doing nothing.

21 And he put me in a cast that day. I was in it for
22 four weeks. I went back to him again. He pulled that
23 cast off and put me in another one. And they were
24 always wanted this paperwork. Why are you off? Why
25 are you off, fill up all this. And I had to drive all

1 the way back over to Huntington, because ---. Massey
2 was satisfied with the paperwork. They was paying me;
3 right? But this Hartford company always want more,
4 always want more, always want more, you know what I'm
5 saying? You know, inconvenient me, but I had to do it
6 to get my paycheck, you know what I mean?

7 EXAMINATION

8 BY MR. FARLEY:

9 Q. Is BrickStreet not involved in this?

10 A. BrickStreet does not deal with Performance, no.

11 See, and I don't know how many years ago it was when I
12 messed my^(b)(7)(C) ^(b) but Marfork ---. I was working for
13 Marfork then and BrickStreet was handling everything;
14 right? It wasn't nothing. BrickStreet overall
15 treated me pretty good, you know what I'm saying? But
16 when we transferred to UBB back when I got injured
17 that time, I didn't know that all this was changed,
18 you know what I'm saying? And I didn't like the way
19 they treated me, no.

20 EXAMINATION

21 BY ATTORNEY WILSON:

22 Q. You injured yourself, just for the record --- so
23 the record's clear, while you were working; is that
24 right?

25 A. Correct. Fire boss, yeah.

1 Q. Do you know --- well, what date was that?

2 A. September the 13th. IT happened approximately
3 around nine o'clock at night.

4 Q. 2009?

5 A. Yes, sir.

6 Q. Do you know if the company submitted to MSHA or
7 the State a report of your injury?

8 A. Well, they should have, because there was a
9 Federal mine inspector sitting right outside that
10 night where I was filling out a accident report. I
11 can't remember his name, but I told him, I said, look.
12 But see, I knew my^{(b)(7)(C)} was hurting me real bad.
13 What it was is I went up --- and I don't know where
14 ---. I don't know which map we got here. But I came
15 into the mines and I went to what they call the old --
16 - where I told you Plumley Switch was; right ---

17 Q. Uh-huh (yes).

18 A. --- and went up in it. I was fire bossing what
19 they then called Four section; right? And when I came
20 from doing the faces, I'd always come back and catch
21 these power centers and I'd walk across the feeder.
22 You know what I'm saying?

23 Q. Sure.

24 A. You know how your slopes on your feeder?

25 Q. Sure, uh-huh (yes).

1 A. I don't remember which (b)(7)(C) out on me, but
2 this (b)(7)(C) out on me and I knew it was messed
3 up, ---

4 Q. Okay.

5 A. --- you know? Then when I got outside there was a
6 federal mine inspector outside. I was filling out the
7 accident report. He asked me what happened. I told
8 him. I said, you know, I'm hoping it's just a (b)(7)(C)
9 (b)(7)(C) I'm going to try to stay and help the guys,
10 you know. I'll ride the track and get the power
11 centers close to the sections, you know, close to
12 where I wouldn't have to walk ---

13 Q. Sure.

14 A. --- real far. And I left that morning at five
15 o'clock in the morning so I could be over at the
16 hospital. And I told him, I said, I'm leaving early.
17 I said, my (b)(7)(C) killing me.

18 Q. Sure.

19 A. And then that's when they took me out, you know.
20 Well, the doctor did, you know.

21 Q. And then did you notify Massey that you would be
22 off?

23 A. Oh, yeah. I told them. My wife, in fact, called
24 them from the hospital.

25 Q. And what did they tell you in response?

1 A. I don't know what they told her. I just told them
2 flat out I won't be at work. You know, I can't walk.

3 Q. And no one contacted you?

4 A. They contacted me, but you know how they are, you
5 know. What's going on? Why are you off and
6 everything else. But I had filled out the accident
7 report, you know, of what happened, explaining to them
8 what happened, plus that inspector was there and they
9 all knew I was messed up, you know what I'm saying?

10 But I don't know who the inspector was that night
11 that was sitting there. But I was, like, filling out
12 my pre-shift book and he was over at the other desk, I
13 guess checking stuff out, whoever he was. I don't
14 remember who he was, but he was a federal inspector.

15 Q. When you would do your fire bossing, if you came
16 across hazardous conditions or violations, what would
17 you do?

18 A. Well, if you find them, you know, you don't have
19 time to really correct them. You just danger it off
20 or, you know, notify somebody it needs to be corrected
21 so they can do it the next shift or when they come in,
22 unless it's something they can't cross. And then you
23 got to danger it off and those got to be fixed before
24 they can cross it off, you know, go through it, you
25 know.

1 But we was always told to, you know, danger it
2 off. Write it in the book, danger it off, whatever
3 you danger off or whatever, you know what I'm saying?

4 Q. So they told you to put the conditions in the
5 book?

6 A. Well, you're supposed to, yeah. I mean, I'd do
7 it. I mean, I don't care if they get, like, get mad
8 after it or whatever, you know what I mean?

9 Q. Well ---?

10 A. If you find it, you know, it's your right to put
11 it in the book.

12 Q. Did anyone ever get mad at you for putting things
13 in the book?

14 A. You know, I've been said shit to before.

15 Q. Can you give us an example?

16 A. Well, I mean, you know, sometimes you find
17 something. They don't like it, you know. They say,
18 well, why didn't you fix it? You ain't got time to
19 fix it. You got time to report it and somebody else
20 should fix it.

21 Q. Did anyone ever tell you that, that if you find
22 something, you have to fix it?

23 A. Yeah, I've been told that before. Why didn't you
24 fix it? I'm fire bossing, buddy. I got three hours
25 on the whole mine. I'm by myself. Do you think I'm

1 going to do something by myself that I can't handle?

2 You know what I'm saying?

3 That's how I messed my (b)(7)(C) . They had timbers

4 that needed to be set. Look at little me, trying to

5 stand up a six and a half foot timber with a wedge.

6 You know what I'm saying? I'm trying to correct the

7 problem for the company to make things right; right?

8 And they told me, well, Bruce, why didn't you

9 danger it off and leave it alone? And they were

10 pillar and I said, well, yeah. I said, I would've

11 been damned if I do, damned if I don't. If I'd have

12 dangered it off, then you wouldn't have had a place to

13 mine in the morning. See what I'm saying? It was the

14 only place they had set up, the pillar that day. It's

15 been years ago; right?

16 And some of the timbers wasn't right and I

17 corrected them and tried to correct them by myself,

18 you know what I'm saying. It's the only way that when

19 they came in that morning they'd have a place to mine.

20 And that's what they told me. Why didn't you just

21 danger that entry off? I said, will, I'd have been

22 damned if I do, damned if I don't.

23 Q. All right. Was that a UBB or another mine?

24 A. That was in another mine.

25 ATTORNEY WILSON:

1 Okay. Terry, did you have any?

2 MR. FARLEY:

3 I don't think so.

4 EXAMINATION

5 BY MS. SPENCE:

6 Q. I'd just like to ask you where you're working now.

7 A. Yeah, I'm working now, but I told them I wouldn't
8 go back to UBB. I told them I'd quit first.

9 Q. Where are you working now?

10 A. I'm working for Independence.

11 Q. Where?

12 A. Cook Mines.

13 MS. SPENCE:

14 Thank you.

15 A. I'll just tell you just like I told them. Well, I
16 never went to Cook. I used to stay there ---. You
17 know that technical truck you all got that monitors
18 all the mine gases and stuff that they had at
19 Bandytown?

20 ATTORNEY WILSON:

21 Okay.

22 A. I stayed there and called over there every 15
23 minutes because the rescuers underground --- you know
24 how it monitors, like, the CO and the oxygen and the
25 barometer and all that stuff? First time I ever seen

1 anything like that.

2 ATTORNEY WILSON:

3 Sure.

4 A. But they sent me over there so I could call over
5 every 15 minutes because they said if there's a
6 drastic change they'd pull the rescuers out; right?
7 And I done that until the end of April. And when I
8 found out my real good friends got killed, it was on a
9 Friday morning and I was supposed to work Friday
10 night, Saturday night and Sunday night. And my last
11 callout was six o'clock that morning. And I hadn't
12 been to Beckley since the funeral. This is my first
13 time to Beckley since I've been to all those funerals.
14 I don't even come to Beckley no more.

15 They had the four funerals in one day; right? And
16 every one ---. The first seven they brought outside,
17 I knew every one of them men for 15 to 25 years. And
18 I made my last call over and I said I want to talk to
19 somebody that's in charge. I said I don't give a shit
20 who it is. I said, I don't care if it's Chris Adkins,
21 Don Blankenship. I said somebody's going to get on
22 this phone and I'm going to talk to them right now, so
23 they knew I was upset, you know what I mean, because I
24 just lost guys that was my brothers, you know?

25 You're not going to replace somebody when you go

1 underground that knows you, that has your back for 15,
2 20 years. You just don't go find that again, you know
3 what I'm saying? In fact, the first seven guys got
4 killed, I was on their crew for almost 12 years, you
5 see what I'm saying, before I went to bossing. (b)(7)(C)
6 knew him personally. I been to his house. (b)(7)(C) ,
7 they called him, (b)(7)(C) We go back to Maven
8 Energy days. And you're telling me how long I worked
9 with them for.

10 (b)(7)(C) that had the five weeks to retire. I went
11 back to Maven Energy days with him. (b)(7)(C) the miner
12 man who got killed on that one section, 20-some years
13 with him at Maven Energy. And I told them flat out,
14 somebody's going to get on this phone and I'm going to
15 talk to them. And Gary May got on the phone and I
16 looked at Gary --- I told Gary May right on the phone.
17 I said I am not working Friday night, I am not working
18 Saturday night, and I will not work Sunday night.

19 Well, what's going on, Bruce? And I was upset.

20 They put me on the nerve pills to calm me down. I
21 said, I got four friends that I'm going to see today.
22 I said, they would show me the same respect. I said,
23 I'm going home. I'm taking a shower. I'm putting my
24 suit on. I said, I'm going to four funerals in one
25 day. I said, my wife will drive me.

1 And it's the hardest thing I've ever done in my
2 life. And my wife today still can't even talk --- my
3 wife went over there with me the next day. UBB
4 explosion's at three o'clock. I was in bed. My wife
5 got me up. She said you need to get up. I said,
6 what's wrong? She said, the mine's exploded. I said,
7 do what? And at six o'clock the names start coming
8 out and it hurt me pretty bad.

9 And I kept on just going, they're all gone,
10 they're all gone, they're all gone, they're all gone.
11 I probably took three nerve pills within five hours.
12 I even told my doctor. I even went where I run out,
13 and he didn't say a word. You know what I'm saying?
14 And when they start ringing the names out, Pee Wee
15 and Woodsy. Well, no, Woodsy didn't die. Woodsy's in
16 North Carolina. But they said Steve Harrah, Jason,
17 Pee Wee, Bill. And I just told my wife they were all
18 gone. And she said, what do you mean? And I said
19 they're all gone. That's the guys that I worked with.
20 And my wife knows them personally. She's been to
21 Tim's house.

22 And my wife drove me to the first four funerals.
23 My wife wouldn't go to the last one with me because
24 she couldn't go no more, you know what I'm saying? I
25 took my son and my nephew to Bill's on Sunday. Black

1 guy was a buggy man, was a school teacher. I took my
2 son and my nephew so they could see these were men
3 that I treat like my brothers.

4 I don't care what Massey does. I don't care what
5 they think, what I think. I'm going to tell you
6 exactly what I told them guys that I work with right
7 now. I don't care what you all think. I don't care
8 even a shit what Massey thinks. This is just the way
9 I feel, and until the day I die I'm going to feel this
10 way.

11 I think --- and excuse my language. I'm going to
12 tell you just like I told the guys where I'm at now.
13 I think every one of them son of a bitches, excuse my
14 language, of the five that work in that building over
15 there at that Corridor G, I think every one of them
16 should have been made to look at every one of them
17 damn bodies when they came outside. Then maybe they'd
18 straighten their asses up. You understand what I'm
19 saying?

20 You got 29 men. In my opinion they don't give a
21 shit about them. I mean I don't know. I'm just being
22 honest with you. I mean I don't think they give a
23 shit about nobody.

24 RE-EXAMINATION

25 BY ATTORNEY WILSON:

1 Q. Let me ask you a question. Following the
2 accident, did anyone from Massey interview you?

3 A. Oh, yeah, I had some lawyers come over there. I
4 told them exactly what I thought, too. They've been
5 sending these questionnaires around. I don't even
6 know if you all knew that.

7 MR. SHERER:

8 Yeah.

9 A. I don't even waste my time answering the damn
10 thing.

11 RE-EXAMINATION

12 BY MR. SHERER:

13 Q. Do you believe that the --- supposedly the
14 questionnaire showed that over 90 percent of
15 employees ---

16 A. Bullshit.

17 Q. --- thought Massey was a safe ---?

18 A. Bullshit. My wife just told me that in the paper.

19 Q. Yeah.

20 A. That's bullshit. I watched the guy sign them
21 papers. And not a damn man will tell you Massey puts
22 safety ahead of production. They might not come in
23 here and tell you that, because they're scared of
24 their job.

25 Q. Sure. Do you have any idea ---?

1 A. I don't think it'll ever change, just like I was
2 telling them, where they killed 31 men in less than 90
3 days. Have they not?

4 Q. Uh-huh (yes).

5 A. They killed 29 at UBB. Have they not killed two
6 more since UBB? And (b)(7)(C) , he'll never work a
7 day in their life. (b)(7)(C) still in rehab in (b)(7)(C)
8 (b)(7)(C) will never work a day in his life
9 again, because of mostly (b)(7)(C) can't do it, you know,
10 because (b)(7)(C) rode together for 25 years.
11 Spend more time than their families.

12 Q. Sure.

13 A. (b)(7)(C) was his bolting partner.

14 Q. Uh-huh (yes).

15 A. Are you going to go underground after 25 years
16 bolting with one man and think that man's got your
17 back after a man's got your back for 25 years in the
18 mine? I wouldn't do it. I would not do it.

19 ATTORNEY WILSON:

20 Mr. Brackett, is there anything else
21 concerning the explosion that you are aware of that
22 you think might help us look in a particular
23 direction?

24 A. I honestly --- guys, the only thing I can tell you
25 all is I just heard that technical guy that said he

1 had been to Aracoma and someplace out in Utah that
2 blowed up, and they called him --- I don't know.
3 Y'all might know what I'm talking about. He said they
4 called him in to do all that stuff --- I don't know
5 what his name is --- with that technical truck, you
6 know, when you're ---.

7 MR. SHERER:

8 John Urosek?

9 A. Huh?

10 MR. SHERER:

11 Urosek?

12 A. I don't know what his name is.

13 MR. SHERER:

14 Red-headed guy?

15 A. Yeah, older guy. I just remember they was from
16 Pennsylvania or something like that. The only thing I
17 can tell you is what I heard them saying is all
18 theory. And you know, it kind of makes sense to me,
19 but they're saying that they're going it just on
20 theory because you're all just starting this
21 investigation; right?

22 And every guy I heard talking while I was over
23 there for two weeks, three weeks, whatever, they said
24 they think the theory was it happened on the longwall,
25 you know? And they said they think what happened was

1 it started on the longwall and as the pressure come
2 through, it built up the coal dust, and they think
3 there was two explosions in one. That's the theory
4 they told me they had.

5 MR. SHERER:

6 Okay.

7 A. You know, because they said the heat was so
8 massive and everything. And I know this for a fact,
9 that the mantrip that all the guys I knew got killed
10 on ---. They said the explosion was still so massive
11 there --- you know they were at 62 Break; right?

12 MR. SHERER:

13 I went by there yesterday.

14 A. They said the explosion still had so much force
15 that it ripped the canopy off the mantrip, and that's
16 what I was told. It ripped the canopy off the mantrip
17 and Tim was the only one that survived to walk
18 outside. And I know for a fact the only reason why
19 (b) (7)(C) alive today --- I don't care how many guys
20 come in here. I've had my differences --- what's his
21 name? Chris Blanchard. When I was safety boss.
22 You're going to have your differences, you know what
23 I'm saying, with the president of the company; right?
24 I know he saved (b) (7)(C) life, and I don't know if
25 anybody's come in here and told you all that. I know

1 it for a fact.

2 MR. SHERER:

3 That Chris did?

4 A.(b)(7)(C) life.

5 MR. SHERER:

6 Okay.

7 A. I don't know if anybody's told you all to know
8 that, but I know it for a fact. And I cannot say one
9 thing bad about a man that has two young children that
10 is going to risk his life to save another man's life.
11 Now, how can you honestly say something bad about a
12 man that risked his own life and that's the only
13 reason why (b)(7)(C) alive today? And I know it for a
14 fact.

15 MR. SHERER:

16 Okay.

17 A. Because the last words I ever spoke to Chris
18 Blanchard the last time I seen him was I called him up
19 on the steps on the --- you know how UBB is, the upper
20 part and the lower part; right?

21 MR. SHERER:

22 Uh-huh (yes).

23 A. I was there when they brought the last four bodies
24 out. And they was all draped in American flags. And
25 before I left, I called Chris up on the steps and I

1 said, Chris, I heard what you done for (b) (7)(C) And
2 Chris's exact words to me were, Bruce, I wish I
3 could've got to him sooner. And I know for a fact
4 that Chris gave CPR from 62 Break to outside, and
5 that's the only reason why (b) (7)(C) alive today.
6 I don't care what anybody comes in here and tells
7 you about him. I know he's done things that probably
8 people don't agree with and people don't like. But
9 when a man risked his life to save another man's life,
10 I've got too much respect for him. How many men is
11 going to go in with two young children and a wife and
12 put his life on the line to save a ---? You know, how
13 many men is going to do that? And being the president
14 of the company, he didn't even have to do it.
15 And I know it's true, because (b) (7)(C) I know
16 what (b) (7) told me. (b) (7) said he remembers people coming
17 in. I don't think (b) (7) would talk to anybody for a
18 long time, but I've known (b) (7) for 25 years. He talked
19 to me and my wife at (b) (7)(C) funeral.
20 And (b) (7) told me, he said, he can remember walking
21 towards the outside. He remember seeing lights come
22 at him. He remembers --- I can't remember if he said
23 he sat on a timber or what; right? But you know, but
24 he said he remembers seeing lights come at him, so he
25 sat down. And he remembers somebody running by him,

1 but he couldn't remember who it was.
2 And then Blanchard went down there and checked the
3 pulses on every man on that mantrip. He felt that
4 (b)(7)(C) had a pulse and he give(b)(7)(C) CPR from 62
5 Break to outside. I don't know if anybody's told
6 y'all that or not, but I know that's a fact. And that
7 is the only reason why (b)(7)(C) alive today, the one
8 that's in (b)(7)(C) , the electrician.

9 MR. SHERER:

10 Right.

11 A. And (b)(7) is the only ones who survived.

12 ATTORNEY WILSON:

13 All right. Well, Mr. Brackett, we
14 appreciate you coming in and telling us the
15 information that you've given to us. Is there
16 anything further from anyone?

17 MR. FARLEY:

18 No, I don't believe.

19 ATTORNEY WILSON:

20 All right. Then again, on behalf of the
21 State of West Virginia and MSHA, I want to thank you
22 for coming in. If you think of any more information
23 that you think would be useful, please feel free to
24 contact us at the information that you've provided to
25 us. Is there anything else that you want to add?

1 A. I mean, if she wants to say off the record, I mean
2 I'll tell you all something I don't think you'd right,
3 but I ain't going to say it on the record.

4 ATTORNEY WILSON:

5 Okay. Is there anything else that you
6 want to say before we go off the record?

7 A. No, I'll tell you off the record what I think.

8 ATTORNEY WILSON:

9 Okay. Well, then we'll finish and go off
10 the record.

11 * * * * *

12 STATEMENT CONCLUDED AT 2:25 P.M.

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2 STATE OF WEST VIRGINIA)
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5 CERTIFICATE

6 I, Alison Salyards, a Notary Public in and
7 for the State of West Virginia, do hereby certify:

8 That the witness whose testimony appears in
9 the foregoing deposition, was duly sworn by me on said
10 date and that the transcribed deposition of said
11 witness is a true record of the testimony given by
12 said witness;

13 That the proceeding is herein recorded fully
14 and accurately;

15 That I am neither attorney nor counsel for,
16 nor related to any of the parties to the action in
17 which these depositions were taken, and further that I
18 am not a relative of any attorney or counsel employed
19 by the parties hereto, or financially interested in
20 this action.



23 *Alison Salyards*
24
25
26