

Criminal Charges Dropped against Mining Company, Foreman

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Ruling the government could not prove its case, a federal district court judge has thrown out criminal charges against a Virginia coal operator and its foreman. *United States v. Hills Coal Co., Inc. and David Grigsby* (W.D. Va. Dec. 18, 2013).

The U.S. Attorney's Office brought charges against Hills Coal Co. and foreman David Grigsby after allegedly finding an unguarded return roller on a conveyor at the company's Tipple #1 coal processing facility in 2009. The company filed a notice intending to contest the enforcement action, but later settled and paid the fine.

However, MSHA decided to launch a criminal case. In a 13-count indictment, it accused the company and Grigsby of:

- failing to ensure guards were in place,
- failing to conduct adequate on-shift examinations, and
- falsely representing the mine was in compliance during the first half of April 2009.

The government had to prove Hills and its foreman acted with willful and/or knowing intent. Finding no evidence of that, on the defendants' motion for acquittal, U.S. District Court Judge James Jones threw out the case on the first day of trial. The defendants had presented evidence that MSHA had never before cited the condition during inspections over the previous seven years. Hills also abated the citation promptly, as well as other guarding violations MSHA wrote over the years.

If convicted, the company could have faced millions in fines and Grigsby, years in prison. Twelve of the 13 charges were felony counts, each carrying a maximum fine of \$500,000 and five years behind bars.

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