

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

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**No. 02-1285**

**September Term, 2003**

Filed On: October 3, 2003 [775829]

**Riverdale Mills Corporation,  
Petitioner**

v.

**Secretary of Labor,  
Respondent**

## **Petition for Review of an Order of the Occupational Safety and Health Review Commission**

Before: ROGERS and ROBERTS, *Circuit Judges*, and SILBERMAN, *Senior Circuit Judge*

### **JUDGMENT**

This cause was considered on a petition for review of an order of the Occupational Safety and Health Review Commission and on the briefs filed by the parties. It is

**ORDERED** and **ADJUDGED** that the petition for review of the Occupational Safety and Health Review Commission be denied. Petitioner's claim that the Administrative Law Judge was biased against him is wholly lacking in merit. *See Liteky v. United States*, 510 U.S. 540 (1994). Petitioner claims that the ALJ's references to a witness as "not . . . reliable" show impermissible bias. On the contrary, it is entirely proper for an adjudicator to develop an impression of a witness's truthfulness; such is the essence of adjudication. *See id.* at 550-51. The same rule applies whether the impression is formed "in the course of the current proceedings, or of prior proceedings." *Id.* at 555. Unless such an impression so overwhelms the adjudicator that "fair judgment [would be] impossible," there is no obligation to recuse. *Id.* at 556. Finally, although petitioner asserts that several findings of the ALJ were not supported by substantial evidence, in actuality it merely asks us to re-weigh the evidence and come to a conclusion different from the ALJ's.

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Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or rehearing *en banc*. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

*Per Curiam*

**For the Court:**

**Mark J. Langer, Clerk**

**BY:**

**Michael C. McGrail**

**Deputy Clerk**