

In the
Supreme Court of Ohio

STATE OF OHIO, EX REL.	:	Case No. 2007-1460
RICHARD PIERRON,	:	
	:	
Appellant-Relator,	:	On Appeal from the Franklin County Court
	:	of Appeals, Tenth Appellate District
v.	:	Case No. 06APD04-391
	:	
INDUSTRIAL COMMISSION OF OHIO,	:	
et al.,	:	
	:	
Appellees-Respondents.	:	

**APPELLEE-RESPONDENT, INDUSTRIAL COMMISSION OF OHIO'S,
MEMORANDUM IN OPPOSITION TO MOTION FOR RECONSIDERATION**

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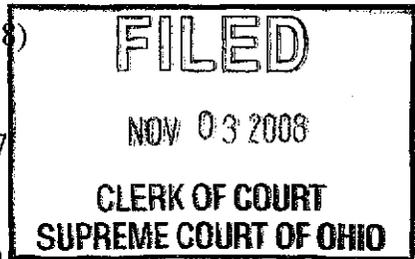
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INTRODUCTION

Pierron's motion for reconsideration essentially makes the same arguments as those found in his merit brief. Pierron asks the Court to again consider whether his actions following his departure from Sprint/United constitute an abandonment of the workforce. This was argued in Pierron's brief, and addressed by the Court in its decision. Therefore, Appellee-Respondent, Industrial Commission of Ohio ("commission"), respectfully requests that Pierron's motion for reconsideration be denied.

ARGUMENT

In a 6-1 decision, this Court affirmed the Tenth District Court of Appeals, which had held that Pierron voluntarily abandoned his employment and the workforce, and was therefore ineligible for Temporary Total Disability Compensation (TTC). In doing so, the Court held that while "Pierron did not initiate his departure from Sprint/United . . . there was no causal relationship between his industrial injury and either his departure from Sprint/United or his voluntary decision to no longer be actively employed." Slip Opinion No. 2008-Ohio-5245, ¶11. Pierron now asks this court to reconsider its decision.

Pierron argues that the court failed to address the issue underlying his merit brief's second proposition of law: that he had reentered the workforce. To the contrary, the Court's decision is anything but silent on Pierron's activities following his departure from Sprint/United. It was specifically based on Pierron's actions, and inaction, that the Court held Pierron has voluntarily abandoned the workforce.

As Pierron states in his motion, the Court makes specific reference to the fact that Pierron was "unemployed except for a brief part-time stint as a flower delivery person." *Id.* at ¶4. The Court further references the commission's finding that "after Pierron's separation from

Sprint/United his actions – or more accurately inaction – in the months and years that followed evidenced an intent to leave the work force.” *Id.* at ¶10. Finally, the Court concludes that once he left Sprint/United, “Pierron had a choice: seek other employment or work no further. Pierron chose the latter.” *Id.* at ¶11. Pierron’s argument that the Court did not address his actions in the years that followed his departure from Sprint/United is unfounded.

CONCLUSION

The commission submits that Pierron’s motion is nothing more than an attempt to reargue the points made in his merit brief. The Court addressed each of these issues and properly affirmed the judgment of the court of appeals. The commission respectfully requests this court deny Pierron’s motion for reconsideration.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing Memorandum in Opposition to Appellant-Relator's Motion for Reconsideration has been sent by regular U.S. Mail, postage prepaid, this 3rd day of November, 2008, to the following counsel:

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