

FILED
IN THE HO-CHUNK NATION
SUPREME COURT

MAR 12 2011

T. Pattibone
Clerk of Court/Assistant

IN THE
HO-CHUNK NATION SUPREME COURT

Joelene Smith,
Appellant,

v.

**ORDER (Denying Motion for
Reconsideration) SU00-14**

Scott Beard, Dept. of Education
and the Ho-Chunk Nation,
Appellees.

This matter came before the Ho-Chunk Nation Supreme Court by a telephone conference call held on Thursday, March 1, 2001. The full Court considered Appellant's Motion for Reconsideration filed on February 16, 2001 and Appellees' Reply Brief filed on February 27, 2001. The Appellant sought a reconsideration of this Court's February 6, 2001 Decision which affirmed the Ho-Chunk Nation Trial Court's September 6, 2000 Order titled Motion for Reconsideration (Denied).

This Court has considered other motions seeking reconsideration. In *Cheryl Smith v. Ho-Chunk Nation and Rainbow Casino*, SU00-07 (HCN S. Ct., July 17, 2000), this Court held that we accept motions for reconsideration "as discretionary decision[s]. Either party can move the Court, through clear and convincing evidence, that a decision of the Court was in err." We applied that standard to this request.

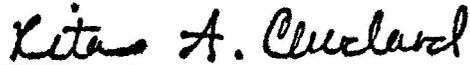
Clear and convincing proof is defined as "where the truth of the facts asserted is highly probable." Blacks Law Dictionary, West Publishing, 6th Ed., 1991. In the Appellant's Motion for Reconsideration, many assertions are made which are clearly not highly probable. For example, the Appellant asserts that the Court made an error in ruling from the bench on consolidated motions that resulted in an adverse ruling to the Appellant. Yet, the record reflects that the Appellant was noticed of the Court's

procedural process in the Order for Oral Argument filed on November 13, 2000. *Joelene Smith v. Scott Beard, Dept. of Educ., and the HCN*, SU00-14 (HCN S. Ct., Nov. 13, 2000). At Oral Argument on December 2, 2000, the Appellant was asked whether she understood the process and agreed to it. Ms. Smith's Lay Advocate, Mr. Rick McArthur answered affirmatively to both questions. Transcript of Oral Argument, pg. 6, Dec. 2, 2000. Based upon the record, the Appellant's assertion did not meet the requirement that clear and convincing proof of an error could be established.

As to Appellant's other assertions, the arguments are simply those made previously by the Appellant upon which she did not prevail. Although this Court admires the Appellant's tenacity, that alone is not sufficient basis to grant the motion.

Based upon the foregoing, this Court hereby DENIES the Appellant's Motion for Reconsideration. EGI HESKEKJET.

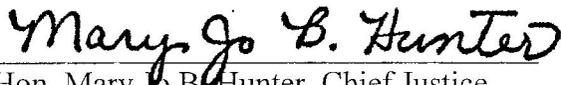
Dated this 12th day of March 2001.



Hon. Rita A. Cleveland, Associate Justice



Hon. Debra C. Greengrass, Assoc. Justice



Hon. Mary Jo B. Hunter, Chief Justice
Ho-Chunk Nation Supreme Court

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Clerk of Court/~~Assistant~~

CERTIFICATE OF SERVICE

I, Tari Pettibone, Clerk of the Ho-Chunk Nation Supreme Court, do hereby certify that on the date set forth below I served a true and correct copy of the **Order (Denying Motion for Reconsideration)** file in Case No. SU-00-14 (CV-96-94) By the United States Postal Service, upon all person listed below:

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Date: March 12, 2001

Tari Pettibone
Tari Pettibone, Clerk of Court
Ho-Chunk Nation Supreme Court