

CCASE:
MSHA V. JOLENE
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FMSHRC-WDC
AUG 30, 1985

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION, MSHA)
on behalf of SHELBY EPERSON

v.

Docket No. KENT 83-38-D

JOLENE, INC., aka JOLINE, INC.

ORDER

Upon consideration of the motion of Joline, Inc., to reopen the record in this case and of the Secretary's response thereto, we deny the motion. Joline's motion directly follows the January 25, 1985 Order of the United States Court of Appeals for the Sixth Circuit, enforcing the Commission's order granting Shelby Eperson reinstatement, back pay, interest and expenses. *Donovan v. Joline, Inc.*, No. 84-3358 (unpublished).

The Secretary's response to the motion states inter alia "The jurisdiction of the Commission at this point in the proceeding has ceased." Response at 4. We agree. Under Section 106(a)(1) of the Mine Act, the Sixth Circuit has exclusive jurisdiction over this matter. Accordingly, respondent's motion to reopen is denied.

For the foregoing reasons we also deny respondent's motion for time in which to reply to petitioner's response filed August 29, 1985.

Richard V. Backley, Acting Chairman

James A. Lastowka, Commissioner

L. Clair Nelson, Commissioner

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