

IN THE SUPREME COURT OF OHIO

THE STATE EX REL.)	CASE NO. 2022-0143
CHRISTOPHER R. MCDONALD,)	
)	On Appeal from the
Relator-Appellee,)	Franklin County Court of Appeals,
)	Tenth Appellate District,
vs.)	Case No. 20AP-386
)	
INDUSTRIAL COMMISSION OF)	
OHIO, et al.,)	
)	
Respondent-Appellant.)	

BRIEF OF APPELLEE
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I. INTRODUCTION

Appellee Amanda Carpenter (“Carpenter”) seeks a Writ of Mandamus challenging the Industrial Commission’s finding that she is not entitled to workers’ compensation under Ohio Revised Code Section 4123.59. Carpenter sought death benefits relating to the death of Decedent Christopher McDonald (“Decedent”), who was employed by Respondent J&J Schlaegel, Inc. (“J&J Schlaegel”) when he died on April 8, 2019. Carpenter was never married to the Decedent, but she alleged that she was nevertheless entitled to death benefits pursuant to Ohio Revised Code Section 4123.59. The Industrial Commission evaluated the evidence presented at hearing and correctly concluded that Carpenter is not entitled to death benefits. Even so, the Court of Appeals for the Tenth Appellate District issued a Writ of Mandamus, directing the Industrial Commission to “vacate its October 10, 2019 order and issue an order determining, consistent with law and this decision, whether under the particular facts of this case Carpenter has established that she is a member of the family pursuant to O.R.C. §4123.59(D) and §4123.95, and if so, the extent of dependency in whole or in part.” The Court of Appeals erred for the reasons outlined in the Brief of Appellant Industrial Commission of Ohio, and J&J Schlaegel adopts the Industrial Commission’s arguments in their entirety.

II. STATEMENT OF THE FACTS

J&J Schlaegel agrees with the Statement of Facts and Case found in the Brief of Appellant, Industrial Commission of Ohio, and adopts the same.

III. ARGUMENT

A. Standard of Review

An order of the Industrial Commission will be upheld on Mandamus absent a finding that the Industrial Commission abused its discretion, and no abuse of discretion will be found if there

is “some evidence” to support the decision. *See, e.g., State, ex rel. Stephenson v. Indus. Comm.*, 31 Ohio St.3d 167, 170 (1987); *State, ex rel. Burley v. Coil Packing, Inc.*, 31 Ohio St.3d 18, 20 (1987). Where there is no evidence supporting the Industrial Commission’s decision, an abuse of discretion has been committed and mandamus should be granted. *State, ex rel. Kramer v. Indus. Comm.*, 59 Ohio St.2d 39, 42 (1979); *State, ex rel. Mitchell v. Robbins & Myers, Inc.*, 6 Ohio St.3d 481, 483 (1983).

B. The Industrial Commission Appropriately Denied Workers’ Compensation Benefits to Carpenter.

J&J Schlaegel agrees with the Industrial Commission’s points raised and arguments made in its April 5, 2022 Brief. The Industrial Commission resolved the factual disputes before it, properly applied O.R.C. §4123.59 to those facts, and issued an Order identifying the evidence it relied upon in concluding that Carpenter is not entitled to benefits under O.R.C. §4123.59.

A Writ of Mandamus is an extraordinary remedy, the granting of which is justified only when the claimant has a clear legal right to the relief requested and the governmental entity has a similarly clear duty. “The Commission is the exclusive evaluator of weight and credibility” of the evidence presented to it. *Moss v. Indus. Comm.*, 75 Ohio St.3d 414, 417 (1996). In that context, the Industrial Commission acted properly.

First, the Industrial Commission noted that the Ohio Legislature banned common law marriage in 1991. *See* O.R.C. §3105.12. In the four decades since, no case has awarded death benefits to an unmarried co-habitant under any set of circumstances. Awarding such benefits would directly contradict the legislature’s clear rejection of common law marriage.

Second, the Industrial Commission made factual determinations based on the evidence before it. The Industrial Commission pointed out that Carpenter and the Decedent had not applied for a marriage license. The Stipulated Record did not contain evidence as to how long

the couple was allegedly “engaged”; did not contain evidence of an engagement ring; did not contain evidence of a wedding date; did not contain evidence of a hall or event space having been rented; and did not contain evidence of a honeymoon planned. Without such evidence, the Industrial Commission evaluated Carpenter’s application and, in the exercise of its discretion, found it insufficient.

Third, an award of benefits to Carpenter would create an absurd result, because it would create a different standard to qualify for workers’ compensation benefits than to terminate them. O.R.C. § 4123.59 contains built-in dates of termination. Benefits to dependent minor children end (among other times) when they reach age 18 (or age 25 if in school). O.R.C. §4123.59(B)(2)(a) and (b). Benefits to spouses end when they “remarry” O.R.C. §4123.59(B)(1). However, Carpenter has never married, so it is unclear if she could “remarry” within the meaning of” O.R.C. §4123.59(B)(1). Further, it is unclear if a new and similar relationship with co-habitation, children, and shared bills, would result in a finding that she had, in fact, “remarried” within the meaning of O.R.C. §4123.59(B)(1). It would be an absurd result if such a relationship were sufficient to qualify for workers’ compensation benefits but not to terminate them. Certainly, that is not what the Ohio legislature intended when it enacted O.R.C. §4123.59. *See, e.g., State ex rel. Cincinnati Post v. Cincinnati*, 76 Ohio St.3d 540, 543-44 (1996).

IV. CONCLUSION

For the reasons above and the reasons explained more fully in the Brief of Appellant, Industrial Commission of Ohio, the extraordinary writ sought by Carpenter and granted by the Court of Appeals should be denied. The Orders of the Industrial Commission should stand.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that on May 5, 2022, a true and correct copy of the foregoing *Brief of Respondent J&J Schlaegel* was served by electronic mail upon:

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