EMPLOYMENT SECURITY COMMISSION OF NORTH CAROLINA
RALEIGH, NORTH CAROLINA

INTERPRETATION NO. 174

TO: R. F. Martin, Director

FROM: R. B. Overton, Attorney

SUBJECT: Interpretation – Decision Which Has Become Final May Be Amended to Correct Clerical Errors or to Make the Decision Express the Intent of the Deputy

We have Mr. Branham's memorandum to you dated October 23, 1961, pertaining to the correction of an apparent error in a decision (docket no. 2592-12). It will be noted that in such decision the Claims Deputy found as a fact that on September 10, 1960, the claimant voluntarily quit his job in order to return to college. He further made a finding that the claimant had finished college and is at this time (June 30, 1961) able and available for work. It will also be noted that the Claims Deputy, under Conclusions, concluded that:

> "This claimant's separation from his last employment was voluntary and without good cause attributable to the employer, Section 96-14(1) of the law."

Thereafter under the decision the Claims Deputy entered the following:

> "No disqualification for reason of the claimant's separation, from his last employment."

Under the facts as found and the law as written, it is apparent that the decision rendered by the Claims Deputy was inadvertently entered, as an examination of his notes entered at the time of the hearing discloses that it was his intention to disqualify the claimant for four weeks, June 20, 1961, through July 17, 1961, as such notations entered on the notice of the hearing where the deputy made notes as the hearing progressed. Under these facts it is clearly within the prerogative of the deputy to correct his decision, even though the appeal period has expired.

In McIntosh's North Carolina Practice and Procedure, it is stated:

> "* * * A final judgment ends the proceeding as to the matter adjudicated and is presumed to be correct, but where there are clerical errors, or the judgment entered does not express correctly the action of the court, it may be corrected to make the record speak the truth. It is the duty of

> the court to see that the record correctly sets forth the action taken, and this it may do without regard to the effect upon the rights of the parties or of third persons. The correction of such errors is not limited to the term of court, nor within a year, but may be done at any time, upon motion, or the court may of its own motion make the corrections when such defects appear. * * *."

Justice Connor in the case of Ricaud v. Alderman, 132 N.C. 64 used this language:

> "This motion is properly made, and is a direct attack upon the integrity of the judgment. It is, in fact, a motion to correct the record so that it may speak the truth. This power is inherent in every court, and its exercise has been so frequently approved by this Court that it would seem unnecessary to cite authorities to sustain it in this case. * * * "

We also find in the case of Cureton v. Garrison, 111 N.C. 271, Justice Burwell in a case where the jury had answered an issue "no" and in which the judge inadvertently entered judgment contrary to the issue as answered by the jury, the Court said:

> "We think that his Honor had power to make the record express truly the ruling of the court and the action taken in the cause, and to hear evidence for the purpose of ascertaining the facts, and if fully satisfied that the rulings of the former judge were not correctly put in writing, and that the record does not truly express his judgment on account of some inadvertence – that he meant to adjudge that the plaintiffs owned what they claimed, to wit, six-sevenths of the tract, and that, by some clerical error, he was made to say that plaintiffs own the entire tract—his Honor had power to so amend the judgment at Fall Term, 1890, as to make it speak the truth. Brooks v. Stephens, 100 N.C. 297, and cases there cited. We think, therefore, that there was error in holding that the matter was res adjudicate, and we remand the cause, that the record may be so amended as to make it truly express the judgment of the court at Fall Term, 1980, if, upon investigation, it is found that there was a mistake made in putting that judgment into writing and on the record."

We, therefore, are of the opinion that the Claims Deputy, upon his own motion, should render a corrected decision in this case, setting forth the amount of disqualification to be imposed by reason of the voluntary separation of the claimant from employment without good cause attributable to the employer, as under the statutes it is mandatory that an individual who voluntarily separates from employment without good cause attributable to his employer must be disqualified for not less than four nor more than twelve weeks.

Adopted as an official Interpretation of the Commission on June 12, 1962.