

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**Houston Byrd, Jr.,**

**Plaintiff,**

**-v-**

**Case No. 2:12-cv-00638**

**JUDGE SMITH**

**Magistrate Judge Norah King**

**American Arbitration Association, *et al.*,**

**Defendants.**

**OPINION AND ORDER**

This matter is back before this Court on Plaintiff Houston Byrd, Jr.'s Motion for Relief from Opinion and Order (Doc. 19). Defendants have responded and Plaintiff has replied. This matter is now ripe for review. For the reasons that follow, Plaintiff's Motion for Relief or reconsideration of this Court's Order granting Defendants' Motion to Dismiss (Doc. 16), is **DENIED.**

This Court granted Defendants' Motion to Dismiss on March 27, 2013, and final judgment in this case was entered in favor of Defendants. Plaintiff then filed a notice of appeal on April 2, 2013. (*See* Doc. 18). Then, on April 19, 2013, Plaintiff filed the Motion for Relief from Opinion and Order, now before the Court. Defendants argue that this Court lacks jurisdiction on this Motion and should decline to consider it, or deny it because it is substantively deficient.

Plaintiff's Motion is a recitation of the facts from the underlying arbitration that he challenged, as well as arbitration rules and provisions. Plaintiff has not introduced anything new for the Court to reconsider. It is possible that Plaintiff intended this Motion to serve as his

appellate brief, as he refers to himself as Appellant in the motion.

“[A] motion for reconsideration should not provide the parties with an opportunity for a second bite at the apple.” *In re Christie*, 222 B.R. 64, 66 (Bankr. D. N.J. 1998) (citing *Database v. Bellsouth Advertising & Publishing Corp.*, 825 F. Supp. 1216, 1220). “A party seeking reconsideration must show more than a disagreement with the Court’s decision, and ‘recapitulation of the cases and arguments considered by the court before rendering its original decision fails to carry the moving party’s burden.’” *Database*, 825 F. Supp. at 1220. Nor is a motion for reconsideration properly grounded on a request that a court rethink a decision already made. *See Glendon Energy Co. v. Borough of Glendon*, 836 F. Supp. 1109, 1122 (E.D. Pa. 1993). When a motion for reconsideration raises only a disagreement by a party with a decision of the court, that dispute “should be dealt with in the normal appellate process, not on a motion for reargument.” *Database*, 825 F. Supp. at 1220.

After careful review of Plaintiff’s Motion, he has not raised anything new for this Court’s consideration. Plaintiff’s Motion is nothing more than an attempt to reargue the case. However, this is not the proper forum. A motion for reconsideration, as stated above, is to be used to correct errors of law, or fact, or to present newly discovered evidence. Plaintiff has therefore failed to provide any basis for this Court to reconsider its March 28, 2013 Opinion and Order granting Defendants’ Motion to Dismiss. The Court therefore **DENIES** Plaintiff’s Motion for Relief from Opinion and Order.

The Clerk shall remove Document 19 from the Court’s pending motions list.

**IT IS SO ORDERED.**

*/s/ George C. Smith*  
\_\_\_\_\_  
**GEORGE C. SMITH, JUDGE**  
**UNITED STATES DISTRICT COURT**