

**IN THE COURT OF APPEALS OF OHIO**

SEVENTH APPELLATE DISTRICT  
MAHONING COUNTY

STATE OF OHIO,

Plaintiff-Appellee,

v.

RALPH GOAD,

Defendant-Appellant.

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**OPINION AND JUDGMENT ENTRY**  
**Case No. 17 MA 0051**

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Motion for Reconsideration

**BEFORE:**

Cheryl L. Waite, Gene Donofrio, Carol Ann Robb, Judges.

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**JUDGMENT:**

Overruled.

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*Atty. Paul J. Gains*, Mahoning County Prosecutor and  
*Atty. Ralph M. Rivera*, Assistant Prosecuting Attorney  
21 West Boardman Street, 6th Floor, Youngstown, Ohio 44503, for Plaintiff-Appellee

*Atty. Shelli Ellen Freeze*,  
839 Southwestern Run Road, Poland, Ohio 44514

Dated: June 20, 2018

**PER CURIAM.**

{¶1} On April 4, 2018, Appellee State of Ohio timely filed an application for reconsideration of our March 29, 2018 decision in *State v. Goad*, 7th Dist. No. 17 MA 0051, 2018-Ohio-1338. Appellant Ralph Goad did not file a brief in opposition to the application.

{¶2} Appellant pleaded guilty to six counts of breaking and entering, six counts of burglary, and one count of attempted burglary and was sentenced to an aggregate term of fifteen years of imprisonment. The trial court imposed thirty-month sentences for each of the six burglary convictions, to run consecutively, thirty months for the attempted burglary conviction, to run concurrently with the consecutive sentences for burglary, and twelve months sentences for each of the six breaking and entering convictions, also to run concurrently with the consecutive sentences for burglary. *Id.* at ¶ 3-4. On appeal, we affirmed Appellant's convictions but remanded the matter for a new sentencing hearing, based on the trial court's failure to make the required findings for the imposition of consecutive sentences pursuant to R.C. 2929.14(C)(4) at the original sentencing hearing and in the judgment entry of sentencing.

{¶3} The state contends that a new sentencing hearing is not necessary here. The state reasons that the trial court made sufficient findings with respect to the imposition of consecutive sentences at the original sentencing hearing, and, therefore, we need only remand the matter for the entry of a *nunc pro tunc* order memorializing the trial court's findings.

{¶4} App.R. 26, which provides for the filing of an application for reconsideration in this Court, includes no guidelines to be used in the determination of whether a decision is to be reconsidered. *Deutsche Bank Natl. Tr. Co. v. Knox*, 7th

Dist. No. 09-BE-4, 2011-Ohio-421, ¶ 2, citing *Matthews v. Matthews*, 5 Ohio App.3d 140, 143, 450 N.E.2d 278 (1981). The test generally applied is whether the motion for reconsideration calls to the attention of the court an obvious error in its decision or raises an issue for our consideration that was either not considered or not fully considered in the direct appeal. *Id.*

{¶5} An application for reconsideration is not designed for use in instances where a party simply disagrees with the conclusions reached and the logic used by an appellate court. *Deutsche Bank* at ¶ 2, citing *State v. Owens*, 112 Ohio App.3d 334, 336, 678 N.E.2d 956 (1996). Rather, App.R. 26 provides a mechanism by which a party may prevent a miscarriage of justice that could arise when an appellate court makes an obvious error or renders an unsupportable decision under the law. *Id.*

{¶6} When imposing consecutive sentences the trial court must make the required R.C. 2929.14(C)(4) findings at the sentencing hearing and must also incorporate those findings into the written sentencing entry. *State v. Bonnell*, 140 Ohio St.3d 209, 2014-Ohio-3177, 16 N.E.3d 654, ¶ 29. We have recognized that “a word-for-word recitation of the language of the statute is not required, and as long as the reviewing court can discern that the trial court engaged in the correct analysis and can determine that the record contains evidence to support the findings, consecutive sentences should be upheld.” *Id.*

{¶7} After review of the transcript of the sentencing hearing and the judgment entry of sentencing, we concluded that the trial court’s findings with respect to the imposition of consecutive sentences were insufficient. The trial court has a statutory obligation to clearly state its reasons for the imposition of consecutive sentences on the

record, and, as a consequence, we find no obvious error in our prior decision. Accordingly, the state’s application is overruled.

**JUDGE CHERYL L. WAITE**

**JUDGE GENE DONOFRIO**

**JUDGE CAROL ANN ROBB**

**NOTICE TO COUNSEL**

**This document constitutes a final judgment entry.**