

**IN THE COURT OF APPEALS OF OHIO**

SEVENTH APPELLATE DISTRICT  
MAHONING COUNTY

STATE OF OHIO,

Plaintiff-Appellee,

v.

ERICULO LAROSS HENDERSON,

Defendant-Appellant.

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**OPINION AND JUDGMENT ENTRY**  
**Case No. 18 MA 0090**

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Motion for Reconsideration

**BEFORE:**

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

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**JUDGMENT:**

Denied

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*Atty. Paul Gains*, Prosecutor and *Atty. Ralph Rivera*, Assistant Prosecutor, Mahoning County Prosecutor's Office, 21 West Boardman Street, 6<sup>th</sup> Floor, Youngstown, Ohio 44503, for Plaintiff-Appellee, and

Ericulo Laross Henderson, (PRO SE), A672536, Southeastern Correctional Institution, 5900 B.I.S. Road, Lancaster, Ohio 43130, for Defendant-Appellant.

Dated:

September 23, 2020

**PER CURIAM.**

{¶1} Defendant-appellant, Ericulo Henderson, has filed two motions for reconsideration asking this court to reconsider our decision and judgment entry in which we affirmed the judgment of the Mahoning County Common Pleas Court. See *State v. Henderson*, 7th Dist. No. 18 MA 0090, 2020-Ohio-3164.

{¶2} 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 and changed. *Matthews v. Matthews*, 5 Ohio App.3d 140, 143, 450 N.E.2d 278 (10th Dist.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 at all or was not fully considered by us when it should have been. *Id.* 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. *State v. Owens*, 112 Ohio App.3d 334, 336, 678 N.E.2d 956 (11th Dist.1996). Rather, App.R. 26 provides a mechanism by which a party may prevent miscarriages of justice that could arise when an appellate court makes an obvious error or renders an unsupportable decision under the law. *Id.*

{¶3} A motion for reconsideration must be filed within ten days of the judgment. App.R. 26(A)(1)(a). Our judgment in this case was filed on May 29, 2020. Therefore, appellant had to file his motion for reconsideration by June 8, 2020. Appellant filed his first motion on July 2, 2020. He filed his second, almost identical motion, on August 6, 2020. Thus, his motions are untimely.

{¶4} App.R. 14(B) provides that enlargement of time to file an application for reconsideration shall not be granted except on a showing of extraordinary circumstances. Thus, an appellate court only has the authority to grant leave to file a delayed motion for reconsideration if there is a showing of extraordinary circumstances. In this case, appellant has not indicated any extraordinary circumstances that prevented him from filing a timely motion for reconsideration.

{¶5} For the reasons stated, the applications for reconsideration are denied.

**JUDGE GENE DONOFRIO**

**JUDGE CHERYL L. WAITE**

**JUDGE CAROL ANN ROBB**

**NOTICE TO COUNSEL**

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