

IN THE COURT OF APPEALS OF OHIO

SEVENTH APPELLATE DISTRICT
MAHONING COUNTY

AARON L. JONES, SR.,

Plaintiff- Appellant,

v.

MAHONING COUNTY CLERK OF COURT,

Defendant- Appellee.

OPINION AND JUDGMENT ENTRY
Case No. 18 MA 0074

Application for Reconsideration

BEFORE:

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

JUDGMENT:

Denied.

Aaron Jones, Sr., pro se, A511-342, 2500 South Avon Beldon Road, Grafton, Ohio 44044 for Plaintiff-Appellant and

Atty. Paul J. Gains, Mahoning County Prosecutor, 21 West Boardman Street, 6th Floor,
Atty. Gina Zawrotuk, Assistant Prosecuting Attorney, 21 West Boardman Street, 5th Floor, Youngstown, Ohio 44503, for Defendant-Appellee.

Dated: May 20, 2019

PER CURIAM.

{¶1} Appellant Aaron L. Jones has filed a timely application for reconsideration of this court's March 18, 2019 decision affirming the trial court's dismissal of an action he filed against Mahoning County Clerk of Court Anthony Vivo. *See Jones v. Mahoning Cty. Clerk of Court*, 7th Dist. No. 18 MA 0074, 2019-Ohio-1097. Appellant filed that action pro se on March 15, 2018 and raised allegations that he was wrongfully imprisoned and that the Clerk of Court misfiled prior actions he attempted to file under R.C. 2743.48, the wrongful imprisonment statute. In dismissing the action, the trial court adopted the argument of the Clerk of Court that Appellant failed to state a claim for wrongful imprisonment. *Id.* at ¶ 7. The trial court additionally found Appellant failed to allege a cognizable action against the Clerk of Court. *Id.*

{¶2} Although Appellant suggested below and on appeal that he was not bringing a wrongful imprisonment action against the Clerk of Court, he repeatedly set forth arguments as to why he believed he was being wrongfully imprisoned and why he sufficiently stated a claim for wrongful imprisonment. *Id.* at ¶ 1, 6, 23-26, 31. We addressed what appeared to be an attempt to bring an original action against the Clerk of Courts to compel the performance of a statutory duty. *Id.* at ¶ 32-36. We alternatively addressed Appellant's other arguments "[t]o the extent Appellant's action appeared to be a wrongful imprisonment action." *Id.* at ¶ 27. *See also id.* at ¶ 31 ("Regarding the trial court's construction of the action as a statutory action for wrongful imprisonment * * *").

{¶3} App.R. 26(A)(1) provides the time requirements for filing an application for reconsideration but provides no guidelines for this court's review of the application, which have thus been formed through case law. Generally, we ascertain whether the application points to an obvious error in our decision or points out an issue that was not considered or was not fully considered by this court even though it was raised. *State v. Henderson*, 7th Dist. No. 16 MA 0057, 2019-Ohio-130, ¶ 3. Reconsideration is not a second appeal or a mechanism to raise a new argument. *Id.* We need not reiterate the reasons for our decision where they are already fully stated and the defendant is merely

using the application as a means to express dissatisfaction with the logic used and conclusions reached in the appellate decision. *Id.*

{¶4} On reconsideration, Appellant emphasizes that the action he filed on March 15, 2018 was solely one to compel the Clerk of Court to file two prior submissions as separate civil cases instead of as motions in his criminal case as required by R.C. 2743.48(B)(1). (Nevertheless, he then recites some of the additional contentions he made in his appeal.) Appellant raised a multitude of issues on appeal, and this court fully addressed the various topics he raised. Contrary to his contention on reconsideration, this court recognized that he wished to compel the Clerk of Court to refile certain submissions as new civil actions instead of as motions in his criminal case. *Jones* at ¶ 3, 5, 32 (which filings were not part of the record). Although we ruled on the trial court's decision that a claim was not sufficiently asserted under the wrongful imprisonment statute, we also upheld the trial court's alternative ruling that the pro se pleading Appellant drafted to commence his action was insufficient to initiate a cognizable action against the Clerk of Court.

{¶5} Appellant agrees his pleading would not be a cognizable habeas corpus action, but he states we should not have addressed this because he did not attempt to file a habeas action. See *id.* at ¶ 33-34. Yet, this was addressed in direct response to the statement in Appellant's brief mentioning that the trial court had "Jurisdiction To Entertain Said Action As A Habeas Corpus * * *." Although we observed Appellant failed to address any other type of original action, we suggested his argument sounded in mandamus, noting a mandamus action involves a petitioner who claims: he has no adequate legal remedy, he has a clear legal right to performance of an act by the Clerk of Court, and the latter has a clear legal duty to perform. *Id.* at ¶ 34. We then explained why Appellant's pleading was insufficient to be considered compliant with the requirements for filing a mandamus action. *Id.* at ¶ 34-36. Appellant apparently wishes to avoid these standards.

{¶6} He seems to suggest he had the right to file an unspecified civil action against the Clerk of Court to obtain a judgment ordering the Clerk of Court to perform a duty due to the wrongful imprisonment statute's statement on where the Clerk of Court shall docket a wrongful imprisonment action. However, the wrongful imprisonment

statute's setting forth how the Clerk of Court shall docket a complaint filed thereunder does not define a new cause of action against the Clerk of Court. Also, Appellant's complaint did not refer to a declaratory judgment, and Appellant's brief did not allege the applicability of such action. Appellant's rambling complaint did not provide notice of a cognizable action against the Clerk of Courts. The action was also subject to dismissal for the failure to file the affidavit of prior civil actions required by R.C. 2969.25 (which applies to *all* civil actions filed by an inmate against a government entity or employee). *Id.* at ¶ 36.

{¶7} The application for reconsideration is hereby denied.

JUDGE CAROL ANN ROBB

JUDGE GENE DONOFRIO

JUDGE CHERYL L. WAITE

NOTICE TO COUNSEL

This document constitutes a final judgment entry.