

IN THE COURT OF APPEALS OF THE
STATE OF OREGON

STATE OF OREGON,
Plaintiff-Respondent,

v.

SIRGIORGIO SANFORD CLARDY, III,
aka Sir Giorgio Sanford Clardy,
Defendant-Appellant.

Multnomah County Circuit Court
120632917, 120733213, 120833617;
A154794 (Control), A154795, A154068

Kelly Skye, Judge. (Judgments in Case Nos. 12-06-32917
& 12-07-33213)

Stephen K. Bushong, Judge. (Judgment in Case No.
12-08-33617)

On appellant's petition for reconsideration filed July 28,
2017 and appellant's supplemental petition filed August 18,
2017. Opinion filed on July 19, 2017. 286 Or App 745, ___
P3d ___.

Ernest G. Lannet, Chief Defender, Criminal Appellate
Section, and David O. Ferry, Deputy Public Defender, Office
of Public Defense Services, for petition. Sirgiorgio Sanford
Clardy *pro se* for supplemental petition.

Before Tookey, Presiding Judge, and DeHoog, Judge, and
Sercombe, Senior Judge.

PER CURIAM

Petition for reconsideration filed by defense counsel
allowed; defendant's *pro se* petition for reconsideration
denied; former opinion modified and adhered to as modified.

PER CURIAM

Defendant, through counsel, petitions for reconsideration in *State v. Clardy*, 286 Or App 745, ___ P3d ___ (2017). Defendant also files a *pro se* petition for reconsideration, rearguing the points raised in his *pro se* supplemental appellant’s brief and seeking relief that he did not request on appeal. We deny the *pro se* petition for reconsideration. We allow the petition for reconsideration filed by defense counsel, modify our prior opinion in the manner described, and adhere to it as modified.

In *Clardy*, defendant argued that “[t]he trial court erred when it denied defendant’s demurrer to the indictment in case number 12-06-32917.” 286 Or App at 768 (brackets in original). We concluded that the demurrer should have been allowed and that the error was prejudicial as to all of the crimes charged in that indictment. On reconsideration, defendant asserts that the charges in case number 12-07-33213 should be reversed because they were tried together with the charges in case number 12-06-32917 and the evidence in that case prejudiced the jury’s consideration of the charges in case number 12-07-33213.

We reject defendant’s request to reverse his convictions in case number 12-07-33213. Defendant did not assign error to the trial court’s denial of his motion to sever case number 12-07-33213 from case number 12-06-32917 or clearly request the relief that he now requests on reconsideration. See ORAP 5.45 (all assignments must be in the opening brief and identify the ruling being challenged on appeal); *State v. Leistiko*, 352 Or 622, 624, 624 n 2, 292 P3d 522 (2012) (declining to address the defendant’s argument on reconsideration that evidence affected other convictions because on appeal he only asked “that his ‘convictions’ be reversed,” but did not “specif[y] which convictions,” and “did not identify any other charges that the erroneously admitted evidence was likely to have affected”); *State v. Williams*, 254 Or App 746, 747, 295 P3d 693, *rev den*, 353 Or 868 (2013) (on reconsideration, only granting the defendant the relief requested on appeal which was resentencing on one case, not both cases as requested in the petition for reconsideration); *State v. Dominguez-Coronado*, 219 Or App 315,

318, 182 P3d 322, *rev den*, 345 Or 396 (2008) (ORAP 6.25 authorizes a petition for reconsideration, not a petition for an opportunity to assert new assignments of error).

We agree with defendant that our previous disposition does not necessarily obviate the need to address defendant's second and third assignments of error. We modify our prior opinion and reject those assignments without discussion.

Petition for reconsideration filed by defense counsel allowed; defendant's *pro se* petition for reconsideration denied; former opinion modified and adhered to as modified.