

IN THE SUPREME COURT OF OHIO

GARY L. NUNN, : Supreme Court Case No. 2008-0595
: :
Appellant, : :
: :
vs. : On appeal from the
: Warren County Court
: of Appeals, Twelfth
SPRING VILLAGE APARTMENTS, : Appellate District
: Court of Appeal
: :
Appellee, : :
: Appellate Case No. CA2007-07-090
: Trial Case No. 06-CVF-00402

MEMORANDUM OF APPELLEE SPRING VILLAGE APARTMENTS
IN OPPOSITION TO APPELLANT'S MOTION FOR RECONSIDERATION

Christopher R. Conard (0039751) (COUNSEL OF RECORD)
Maureen S. Hinson (0076482)
Coolidge Wall, Co., L.P.A.
33 West First Street, Suite 600
Dayton, Ohio 45402
Phone: (937) 223-8177
Fax: (937) 223-6705
E-Mail: conard@coollaw.com
E-Mail: hinson@coollaw.com

COUNSEL FOR APPELLEE
SPRING VILLAGE APARTMENTS

Gary L. Nunn (COUNSEL OF RECORD)
201 South Heincke, Apartment P
Miamisburg, Ohio 45342
Phone: (937) 674-4503

PRO SE APPELLANT

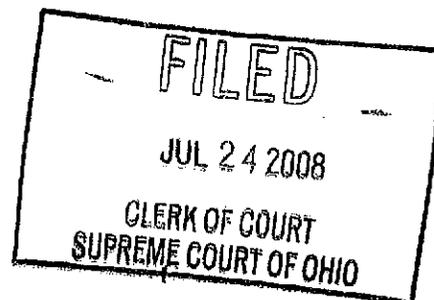


TABLE OF CONTENTS

Page

I.	APPELLANT’S MOTION FOR RECONSIDERATION CONSTITUTES A REARGUMENT OF THE CASE, AND FAILS TO SET FORTH ANY GROUNDS FOR RECONSIDERATION.....	1
II.	CONCLUSION.....	3

I. APPELLANT'S MOTION FOR RECONSIDERATION CONSTITUTES A REARGUMENT OF THE CASE, AND FAILS TO SET FORTH ANY GROUNDS FOR RECONSIDERATION

The Ohio Supreme Court declined jurisdiction of, and dismissed, Appellant's appeal on the grounds that the appeal does not involve a substantial constitutional question. Sup. Ct. Rule XI, Section 2, states that a party may file a motion for reconsideration. However, the "motion for reconsideration shall be confined strictly to the grounds urged for reconsideration, and shall not constitute a reargument of the case***."

Appellant filed a motion for reconsideration. However, Appellant's motion for reconsideration is not strictly confined to the grounds urged for this Court to reconsider whether a substantial constitutional question exists. Instead, Appellant's motion is a reargument of his case.

For instance, Appellant again argues that Appellee violated the Twelfth District Court of Appeals Local Rule 9 regarding the designation of counsel. However, Appellant still fails to state any grounds establishing that this is a substantial constitutional question or issue of public or great general interest such that this Court should reconsider jurisdiction over this appeal. Furthermore, Appellant's argument that an alleged violation of a local appellate rule is a substantial constitutional question or of public or great general interest is baseless. Appellee adhered to every procedural rule and the customs and practices of the courts of Ohio regarding the designation of counsel throughout this case. At all times, at both the trial level and the appellate level, the law firm Coolidge Wall Co., L.P.A. and Christopher R. Conard were listed as counsel of record for Appellee. Appellant was on notice of this, and even acknowledged this when he served every pleading that he filed on both Coolidge Wall Co., L.P.A, and Mr. Conard,

specifically. Thus, Appellant has set forth no grounds urging this Court to reconsider whether it has jurisdiction over an appeal regarding an alleged violation of a local appellate procedural rule.

Appellant also contends that the Trial Court erroneously found, and the Twelfth District Court of Appeals erroneously upheld the Trial Court's finding, that Appellant's separate lawsuit seeking the return of his security deposit was barred under the doctrine of *res judicata* because he failed to raise this argument in the previous lawsuit brought by Appellee. Again, Appellant fails to set forth any grounds establishing that this is a substantial constitutional question or of public or great general interest. Furthermore, Appellant did not appeal the Judgment Entry of Twelfth District Court of Appeals, filed on February 11, 2008, affirming the Trial Court's grant of summary judgment in favor of Appellee on the basis of the legal doctrine of *res judicata*. Instead, Appellant appealed only the Twelfth District Court of Appeals' denial of his Motion for an Order Prohibiting Participation of Counsel (the "Motion"), the basis of which was a procedural issue concerning a local appellate rule. Thus, Appellant is barred from raising this issue now in his motion for reconsideration.

Finally, not only does Appellant fail to state any grounds that his appeal contains a substantial constitutional question or is of public or great interest, but he also fails to invoke the jurisdiction of this Court in any other manner. In making a determination on Appellant's Motion, the Court of Appeals applied the correct law, Local App. R. of Procedure 9. Therefore, this Court does not have jurisdiction by virtue of the lower court applying the incorrect law. Moreover, this is a local procedural rule, which specifically applies to appeals filed in the Court of Appeals for the Twelfth District. There is no conflict among the District Courts of Appeal regarding Local App. R. 9, and therefore, there is no conflict that requires resolution by this

Court. Thus, Appellant has set forth no grounds urging this Court to reconsider whether it has jurisdiction over an appeal regarding an alleged violation of a local appellate procedural rule.

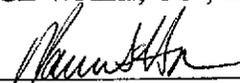
II. CONCLUSION

For the reasons stated above, this Court overrule Appellant's motion for reconsideration and decline to exercise its jurisdiction in this matter.

Respectfully submitted,

COOLIDGE WALL, CO., L.P.A.

By



Christopher R. Conard (0039751)
Maureen S. Hinson (0076482)
Coolidge Wall Co., L.P.A.
33 W. First Street, Suite 600
Dayton, Ohio 45402
Tel: 937-223-8177
Fax: 937-223-8711
Email: conard@coollaw.com
hinson@coollaw.com

COUNSEL FOR APPELLEE SPRING
VILLAGE APARTMENTS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the preceding was served upon Gary L. Nunn, 201 South Heincke, Apartment P., Miamisburg, Ohio 45342, via regular U.S. mail, postage prepaid, on the 23rd day of July 2008.



Attorney at Law