

ORIGINAL

IN THE SUPREME COURT OF OHIO

STATE OF OHIO : SUPREME COURT CASE No. 13-0994
Appellee, :
vs. : On Appeal from the Summit County
 : Court of Appeals Ninth Appellate
 : District.
MICHAEL CLAY :
Appellant. :

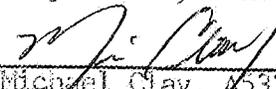
NOTICE TO THE COURT

On July 17, 2013 I filed a Memorandum in support of Jurisdiction with this Court. As well as a Notice to the Court, explaining the ordeal in the Ninth District Court of Appeals, i.e. Motion for Reconsideration. Here, this Notice is to inform the Court that a decision has been rendered regarding the reconsideration filed in the appeal court.

The Ninth District Court of Appeals has denied the motion for reconsideration, claiming that Mr. Clay was untimely. See attached Court opinion. However, Mr. Clay was in fact timely as reflected by the attached withdrawal slip, reflecting when the motion was sent to the clerks office.

At this time, this Court can now proceed with a decision of whether or not it will accept jurisdiction of the appeal.

Respectfully Submitted,


Michael Clay, 1533-044
Mansfield Correctional Inst.
P.O. Box 788
Mansfield, Ohio 44901-0788

RECEIVED
AUG 19 2013
CLERK OF COURT
SUPREME COURT OF OHIO

FILED
AUG 19 2013
CLERK OF COURT
SUPREME COURT OF OHIO

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Notice to the Court was sent to the Summit County Prosecutor's office. Located at 53 University Ave, Akron, Ohio 44308 on this day of 12 on this 12th day of August 2013.



Michael Clay, A533-044
Defendant Pro Se.

STATE OF OHIO

COURT OF APPEALS
) DANIEL M. HOFFMAN
) ss:
2013 JUL 30 PM 2:06

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

COUNTY OF SUMMIT

STATE OF OHIO

SUMMIT COUNTY
CLERK OF COURTS

C.A. No. 26891

Appellee

v.

MICHAEL F. CLAY

Appellant

JOURNAL ENTRY

On May 15, 2013, this court dismissed appellant's appeal from an untimely motion for post-conviction relief because he filed his notice of appeal one day late. Appellant moved for reconsideration, but that motion was also untimely and was denied. Appellant has now moved this court to reconsider its denial of the first motion for reconsideration, but the current motion is also untimely. According to appellant, he has been mailing his filings timely, but the documents are not being time-stamped by the clerk's office on the day of receipt. Appellant also claims that he was entitled to three extra days after service of the court's orders in which to make these filings.

According to App.R. 14(B), this court may consider an untimely motion for reconsideration upon a demonstration of extraordinary circumstances. Appellant, however, has failed to demonstrate such circumstances here. First, we reject his claim that the clerk's office has intentionally or otherwise failed to promptly time stamp his documents. Appellant has provided no support for that claim other than the dates he mailed the documents. Nor do we consider mail delays to constitute extraordinary circumstances.

We also reject appellant's contention that he was entitled to three additional days in which to file his motion for reconsideration under App.R. 14(C). That rule permits an additional three days for filing "[w]henver a party is required or permitted to do an act

within a prescribed period after service of a paper upon the party and the paper is served by mail[.]” We have found no authority applying that rule to court-issued entries. We conclude, therefore, that the rule does not provide appellant with additional time to file under either App.R. 4(A) or App.R. 26(A)(1).

Appellant’s motion for reconsideration is denied.

Carla Moore

Judge

Concur:

Whitmore, J.

Hensal, J.

IN THE COURT OF APPEALS
NINTH APPELLATE DISTRICT
SUMMIT COUNTY, OHIO

Time Stamp
COURT OF APPEALS
DANIEL M. HERRIGAN
2013 JUN 27 PM 8:38
SUMMIT COUNTY
CLERK OF COURTS

STATE OF OHIO
Plaintiff-Appellee,

C.A. CASE NO. 26891
C.P. CASE NO. CR-06-12-4417

vs.

MICHAEL CLAY
Defendant-Appellant.

DEFENDANT-APPELLANT'S MOTION FOR RECONSIDERATION

Now comes the Defendant-Appellant, Michael Clay, acting in Pro Se, Moves this Court pursuant to App.R.26(A)(1), to reconsider its prior decision, to deny his motion for reconsideration for untimeliness. Appeal Rule 26(A)(1) provides in pertinent part; Application for reconsideration of any

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no

terk

ties

Personal A/C Withdrawal
Check Out-Slip

PACKAGE NO.

Dollars:	Cents: 86
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Institution: MANSFIELD CORRECTIONAL INST.		Date: 6/19/2013	
Name: DANIEL M. HERRIGAN (Clerk of court) (MOTION FOR RECONSIDERATION)			
Address: 205 SOUTH HIGH STREET			
City: AKRON	State: OHIO	Zip Code: 44308	

Postage Copies ID Misc. _____ Check-out CK # _____

The inmate's signature on this withdrawal request verifies that the information listed above has been read to or by the inmate and is correct. In the event of an error in the address which results in the return of this package, the inmate shall assume financial responsibility.

Inmate's Signature: <i>Michael Clay</i>	Number: 533-044	Block & Cell Number: 2C 119
Approved By: <i>EL</i>	Witnessed:	

Ship VIA: REGULAR U.S. MAIL	Date Processed: PAID JUN 20 2013
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