

[Cite as *In re Estate of Conner*, 2017-Ohio-782.]

STATE OF OHIO, MONROE COUNTY
IN THE COURT OF APPEALS
SEVENTH DISTRICT

IN RE:

ESTATE OF LARIE J. CONNER,
DECEASED

CASE NO. 15 MO 0015

OPINION
AND
JUDGMENT ENTRY

CHARACTER OF PROCEEDINGS:

Motion for Reconsideration

JUDGMENT:

Motion denied.

APPEARANCES:

For Plaintiff-Appellant, Nancy Conner,
Executor of the Estate of Larie J. Conner

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St. Clairsville, Ohio 43950

For Defendant-Appellee, Roger "Pete"
English

Attorney Thomas D. White
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209 N. Washington Street
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JUDGES:

Hon. Mary DeGenaro
Hon. Cheryl L. Waite
Hon. Carol Ann Robb

Dated: March 2, 2017

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PER CURIAM.

{¶1} Pursuant to App.R. 26(A)(1), Appellant Nancy Conner, Executor of the Estate of Larie J. Conner, has filed a timely application for reconsideration of this Court's decision, *In re Estate of Conner*, 7th Dist. No. 15 MO 0015, 2016-Ohio-8214.

{¶2} "The test generally applied upon the filing of a motion for reconsideration in the court of appeals is whether the motion calls to the attention of the court an obvious error in its decision, or raises an issue for consideration that was either not considered at all or was not fully considered by the court when it should have been." *Columbus v. Hodge*, 37 Ohio App.3d 68, 523 N.E.2d 515 (1987), paragraph one of the syllabus.

{¶3} The purpose of reconsideration is not to reargue one's appeal based on dissatisfaction with the logic used and conclusions reached by an appellate court. *Victory White Metal Co. v. N.P. Motel Syst. Inc.*, 7th Dist. No. 04 MA 0245, 2005–Ohio–3828, ¶ 2. "An application for reconsideration may not be filed simply on the basis that a party disagrees with the prior appellate court decision." *Hampton v. Ahmed*, 7th Dist. No. 02 BE 0066, 2005–Ohio–1766, ¶ 16 (internal citation omitted). Nor is it "a mechanism to raise an entirely new argument and issue to the appellate court that was not raised in the appellate brief." *State v. Wellington*, 7th Dist. No. 14 MA 0115, 2015–Ohio–2095, ¶ 9.

{¶4} The Executor first argues we erroneously concluded she failed to demonstrate how the Estate was prejudiced by the trial court's consideration of English's untimely exceptions to the inventory. Even assuming arguendo the *one-day* delay caused the prejudice that the Executor is now detailing, we also concluded that "the filing of exceptions was not necessarily required because the Estate was already on notice that English had some type of ownership interest in the property and therefore the probate court was obligated to determine the nature and extent of English's interest, regardless of whether exceptions were filed." *In re Estate of Conner* at ¶ 10.

{¶5} The Executor also takes issue with this Court's construction of her argument—that the trial court erred in concluding English was the sole owner of the

six disputed items—as one relating to equitable estoppel. Regardless how the Executor's argument is construed, English provided specific evidence in the form of testimony and exhibits that he was the sole owner of six disputed items. The Executor offered no specific rebuttal evidence, only testimony regarding how English and the decedent *generally* conducted purchases. Ultimately, the trial court was in the best position to determine matters of credibility. *Id.* at ¶ 19-20.

{¶6} The Executor's arguments on appeal were fully considered by this Court prior to ruling on the matter. The application for reconsideration does not call to the attention of this Court an obvious error. Accordingly, the Executor's motion for reconsideration is denied.

DeGenaro, J., concurs.

Waite, J., concurs.

Robb, J., concurs.