

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

December 3, 2024

[Cite as *12/03/2024 Case Announcements #2, 2024-Ohio-5647.*]

RECONSIDERATION OF PRIOR DECISIONS

2022-1457. State ex rel. Cincinnati Enquirer v. Bloom.

In Mandamus. Reported at [2024-Ohio-5029](#). On motion for reconsideration. Motion denied. L.N.’s motion to intervene as respondent denied. Respondent’s motion to stay entry granting writ pending adjudication of motion for reconsideration denied.

Stewart, J., dissents in part and would grant the motion for reconsideration and deny the motion to stay as moot.

Brunner, J., dissents in part and would grant the motion for reconsideration and the motion to stay.

Donnelly, J., dissents.

Juergen A. Waldick, J., of the Third District Court of Appeals, sitting for Deters, J.

STEWART, J., dissenting.

{¶ 1} This motion for reconsideration should be granted. “This court has the authority to grant motions for reconsideration filed under S.Ct.Prac.R. 18.02 in order to ‘correct decisions which, upon reflection, are deemed to have been made in error.’” *State ex rel. Ohio Presbyterian Retirement Servs., Inc. v. Indus. Comm.*, 2017-Ohio-7577, ¶ 2, quoting *State ex rel. Huebner v. W. Jefferson Village Council*, 75 Ohio St.3d 381, 383 (1995). S.Ct.Prac.R. 18.02(B) specifies that motions for reconsideration “shall not constitute a reargument of the case.” The motion for reconsideration filed by respondent, Judge Kari L. Bloom, cannot constitute reargument, because the majority decision she has asked this court to reconsider is not based on any argument of the parties at all. In fact, members of this court have freely granted reconsideration when the court

“answered an unbriefed question that neither party asked this court to answer,” *State v. Gwynne*, 2023-Ohio-3851, ¶ 34 (Fischer, J., concurring), and “went far beyond what the parties argued or presented for review,” *id.* at ¶ 35 (Fischer, J., concurring). The same standard should apply here given that this is precisely one of the reasons why Judge Bloom seeks reconsideration, and here, the majority erred by conducting a constitutional analysis that none of the parties presented.

{¶ 2} Additionally, reconsideration should be granted because Judge Bloom is correct that this court did not consider J.L.’s privacy rights or his status as a victim in a currently pending prosecution. The majority’s new rule, created *sua sponte*, announced that a juvenile court must conduct “an individualized determination balancing the interests at stake” before closing a juvenile-delinquency proceeding to the public. 2024-Ohio-5029, ¶ 60. But instead of remanding the case for the juvenile court to conduct this balancing test, the majority simply proclaimed, “J.L. is deceased and thus can no longer assert an interest in shrouding the proceedings from the public,” *id.* at ¶ 55, and declared that “[g]ranting the writ in this case is required by the constitutional text,” *id.* at ¶ 56. But nowhere in the Ohio Constitution—repeat, *nowhere*—does it say that death strips a deceased person (or his or her family) of any privacy right. It is a clear error for the majority to have appropriated from the juvenile court the opportunity to apply the very balancing test that the majority simultaneously determined the Ohio Constitution required. And it did so based on a flawed rationale and without any meaningful opportunity for the consideration of the privacy interests that it says must be balanced in this case. This is another clear basis for reconsideration. At the very least, this court should grant reconsideration for the limited purpose of remanding this case to the juvenile court for it to conduct the individualized determination of the interests at stake that the majority’s newly announced test requires.

{¶ 3} Also before us is a motion filed by J.L.’s mother seeking to intervene in the case as a respondent. Although I agree with Judge Bloom that the majority improperly removed from consideration any meaningful opportunity for J.L.’s mother, as his representative or on her own behalf, to assert any privacy rights in this matter, intervention at this stage in this court is not the proper remedy. The proper remedy would be for this court to grant reconsideration to allow the juvenile court to conduct the newly created balancing test. Then, J.L.’s mother could seek to participate through intervention or another procedural mechanism in order to argue for the juvenile court to consider the privacy rights she seeks to assert.
