

IN THE COURT OF APPEALS OF OHIO

SEVENTH APPELLATE DISTRICT
MAHONING COUNTY

STATE OF OHIO,

Plaintiff-Appellee,

v.

ERIC LEWIS,

Defendant-Appellant.

OPINION AND JUDGMENT ENTRY
Case No. 07 MA 0199

Motion for Delayed Reconsideration

BEFORE:

Cheryl L. Waite, Carol Ann Robb, Mark A. Hanni, Judges.

JUDGMENT:

Overruled.

Atty. Gina DeGenova, Mahoning County Prosecutor and *Atty. Edward A. Czopur*,
Assistant Prosecutor, for Plaintiff-Appellee

Eric Lewis, *Pro se*, #534-834, Defendant-Appellant.

Dated: September 13, 2024

PER CURIAM.

{¶1} On April 4, 2024, Appellant Eric Lewis filed a motion for delayed reconsideration of two judgment entries. As to the entry dated February 11, 2009, he requests the appointment of new counsel and that a second set of transcripts be provided at state expense. Regarding the September 22, 2009 entry, he seeks reconsideration of our earlier decision affirming his conviction for complicity to commit aggravated murder and his sentence of life in prison. Appellant raises the same issues in this motion that he raised in a 2016 motion to reopen his appeal, which we overruled on March 10, 2016. Appellant previously argued, and continues to contend, that he was improperly denied the right to an additional set of transcripts at state expense, and was essentially denied the right to a direct appeal after his original appellate counsel filed a no merit brief pursuant to *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967) in his 2009 direct appeal. Although at that time we gave Appellant over 90 days to allow him to file a *pro se* brief raising any additional matters for appeal, he failed to do so. Appellant now claims it would have been futile to file his brief without transcripts (which had already been filed in the appeal many months earlier), and that it would also have been futile to request reconsideration when we initially denied his 2009 request for new counsel and an extra set of transcripts at state expense.

{¶2} App.R. 26(A)(1) governs an application for reconsideration. The application shall not be made later than ten days after the judgment is mailed to the parties and a note is made on the docket of that mailing. For both judgment entries in question, the mailing and its docketing occurred on the filing date of the entries. Therefore, both

applications are more than fourteen years late. A late application for reconsideration may only be considered upon a showing of extraordinary circumstances. App.R. 14(B).

{¶3} Appellant's alleged extraordinary circumstance is that we were not likely to change our minds once we denied his motion for new counsel and an additional set of transcripts. This is simply Appellant's opinion. It is also a concession that he was aware he could have asked for reconsideration in 2009 following our original appellate decision on the issue and simply chose not to do so. He fails to explain why it took fourteen years for him to change his mind. Appellant has not raised any sort of extraordinary circumstance that would allow us now to accept his untimely filed application for reconsideration.

{¶4} Even if we were to address it, the application must be denied because he does not call to our attention any obvious error in either judgment entry. The test generally applied to an App.R. 26(A) application for reconsideration is "whether the application calls to the attention of the court an obvious error in its decision or raises an issue for our consideration that was either not at all or was not fully considered by us when it should have been." *State v. Griffin*, 7th Dist. Mahoning No. 22 MA 0126, 2024-Ohio-412, ¶ 6. Appellant restates his 2016 argument: that he was not afforded the right to counsel when his counsel filed an *Anders* brief and we should have appointed new counsel, and that he should have been provided a second set of transcripts. As we held in 2016, Appellant had the benefit of counsel during his appeal, transcripts were provided and were filed in the appeal, he was granted over 90 days to file additional *pro se* assignments of error but did not, and he was then afforded a full review according the principles set forth in *Anders*. His conviction and sentence were affirmed. (3/10/2016 J.E.; 5/26/2016 J.E.) Although

Appellant disagrees with our judgment, “[m]ere disagreement with this Court's logic and conclusions does not support an application for reconsideration.” *State v. Carosiello*, 7th Dist. Columbiana No. 15 CO 0017, 2018-Ohio-860, ¶ 12.

{¶5} Appellant's application for delayed reconsideration is overruled.

JUDGE CHERYL L. WAITE

JUDGE CAROL ANN ROBB

JUDGE MARK A. HANNI

NOTICE TO COUNSEL

This document constitutes a final judgment entry.