

IN THE COURT OF APPEALS OF OHIO

SEVENTH APPELLATE DISTRICT
MAHONING COUNTY

STATE OF OHIO,

Plaintiff-Appellee,

v.

ZOLTAN KOZIC,

Defendant-Appellant.

OPINION AND JUDGMENT ENTRY
Case No. 18 MA 0083

Request for Vacation of Judgment Entry and Opion [sic]/ Motion for Reconsideration

BEFORE:

David A. D'Apolito, Gene Donofrio, Cheryl L. Waite, Judges.

JUDGMENT:

Request Granted.

Atty. Paul Gains, Mahoning County Prosecutor, and *Atty. Ralph Rivera*, Assistant Prosecutor, 21 West Boardman Street, 6th Floor, Youngstown, Ohio 44503, for Plaintiff-Appellee and

Zoltan Kozic, Pro Se, #604-573, Mansfield Correctional Institution, P.O. Box 788, Mansfield, Ohio 44901, Defendant-Appellant.

Dated: November 4, 2019

PER CURIAM.

{¶1} On October 3, 2019, Appellant, Zoltan Kozic, filed a pro se “Request for Vacation of Judgment Entry and Opion [sic] Issued on April 29, 2019 in Case Number 18 MA 0083.” Appellant asserts he never received timely notice of this court’s decision in *State v. Kozic*, 7th Dist. Mahoning No. 18 MA 0083, 2019-Ohio-1680, thereby resulting in him missing the 45-day deadline in which to appeal to the Supreme Court of Ohio.

{¶2} Appellee, the State of Ohio, did not file a response.

{¶3} Even though Appellant had filed a change of address, the clerk of court records indicate that a copy of the Opinion was initially sent to Appellant at the wrong facility. It was sent to Lake Erie Correctional Institution instead of Mansfield Correctional Institution.

{¶4} On September 5, 2019, this court issued a Judgment Entry noting the mailing discrepancy and directing the clerk to serve a copy of our April 29, 2019 Opinion and Judgment Entry on Appellant, Zoltan Kozic (604-573), Mansfield Correctional Institution, P.O. Box 788, Mansfield, OH 44901. Appellant did not receive the Opinion and Judgment Entry until September 17, 2019, outside of the timeframe in which to appeal to the Supreme Court of Ohio.

{¶5} Upon consideration, Appellant’s pro se “Request for Vacation of Judgment Entry and Opion [sic] Issued on April 29, 2019 in Case Number 18 MA 0083” is hereby granted.

{¶6} For the reasons stated in the Opinion rendered on April 29, 2019, the assignments of error are moot and it is the final judgment and order of this Court that the judgment of the Court of Common Pleas of Mahoning County, Ohio, is affirmed. This judgment is hereby reissued under the authority of *State ex rel. Sautter v. Grey*, 117 Ohio St.3d 465, 2008-Ohio-1444. Costs to be taxed against the Appellant.

{¶7} A certified copy of this opinion and judgment entry shall constitute the mandate in this case pursuant to Rule 27 of the Rules of Appellate Procedure. It is ordered that a certified copy be sent by the clerk to the trial court to carry this judgment into execution.

JUDGE DAVID A. D'APOLITO

JUDGE GENE DONOFRIO

JUDGE CHERYL L. WAITE

NOTICE TO COUNSEL

This document constitutes a final judgment entry.