

In the Supreme Court of Ohio

CASE NO. 2018-1797

Ford Motor Credit Company, et al.
vs.
Ryan & Ryan, Inc., et al.
James M. Ryan – Appellant,

On Appeal from the Franklin
County Court of Appeals
Tenth Appellate District

Court of Appeals Case Nos. 17-AP-375, 17-AP-304

FORD MOTOR CREDIT COMPANY AND AUTOMOBILE RECOVERY SERVICES OF CINCINNATI, INC.’S MEMORANDUM IN OPPOSITION TO JAMES M. RYAN’S MOTION FOR RECONSIDERATION

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Rules

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I. INTRODUCTION

Appellant James M. Ryan’s (“Appellant”) Motion for Reconsideration (the “Motion”) is nothing more than an ill-conceived attempt to impermissibly re-litigate this case. It fails to identify any error with this Court’s decision to decline his jurisdictional appeal as required by S.Ct.Prac.R. 18.02(B). No portion of the Motion sets forth any error with this Court’s March 6, 2019 Decision declining jurisdiction (the “Decision”). *See Motion*. Rather, the Motion attempts to reargue points already considered by this Court in issuing the Decision and asks the Court to “adopt” Justice Donnelly’s dissent. *See Motion*, 1. Appellees Ford Motor Credit Company and Automobile Recovery Services of Cincinnati, Inc. respectfully request that this Court deny the Motion as a result.

II. LAW AND ARGUMENT

A. Appellant Improperly Seeks to Utilize the Motion to Reargue his Case and Fails to Highlight any Error in this Court’s Ruling Declining his Jurisdictional Appeal

Appellant’s Motion must be denied and this Court’s decision to decline Appellant’s jurisdictional appeal should remain in force because Appellant improperly attempts to utilize the Motion to reargue his case rather than address any perceived error in this Court’s decision declining his jurisdictional appeal. Under S.Ct. Prac.R. 18.02(B), a motion for reconsideration shall not constitute a reargument of the case. S.Ct. Prac.R 18.02. (emphasis added). This Court utilizes its reconsideration authority to “correct decisions which, upon reflection, are deemed to have been made in error.” *State ex rel. Huebner v. W. Jefferson Village Council*, 75 Ohio Std.3d 381, 383, 662 N.E.2d 339 (1995). However, this Court will not grant reconsideration when a movant seeks merely to reargue the case at issue. *Dublin City Schools Bd. of Edn. v. Franklin Cty. Bd. of Revision*, 139 Ohio Std.3d 212, 2014-Ohio-1940, 11 N.E.2d 222, ¶ 9.

Here, Appellant’s Motion does not set forth any error in the Decision. *See Motion*. Rather,

Appellant uses the Motion to reargue an issue he feels the Tenth District decided incorrectly:

Appellant argued in his Memorandum in Support of Jurisdiction that the Tenth District Court of Appeals in its September 27, 2018 Decision and its Judgment Entry dated October 4, 2018 has set a new precedent in Ohio authorizing Creditor's and its appointee's, agents and other contractors, pursuant to Ohio Revised Code Section 1309.609 and without judicial process, to enter upon a debtor's premises including structures and to use physical force against the debtor to accomplish a repossession of collateral.

Id. at 1. (emphasis added)

This is the same argument Appellant raised in his jurisdictional appeal. *See Jurisdictional Appeal Brief*, at 9. It is clear Appellant's Motion is nothing more than an attempt to reargue his case in direct violation of S.Ct.Prac.R. 18.02(B). Accordingly, the Motion must be denied.

B. Appellant's Arguments regarding the Enactment of House Bill 228 were already considered by this Court in Appellant's Jurisdictional Appeal

The remainder of Appellant's Motion is a lengthy diatribe regarding the enactment of House Bill 228. *See Motion*, 2-5. Once again, Appellant's remaining arguments in the Motion mirror the arguments he made in his Jurisdictional Appeal:

This new precedent places the debtor in a very dangerous position as under Ohio Revised Code Sections 2901.09 & 2901.05 the debtor has no duty to retreat before using force in self-defense or a duty to retreat before using force in self-defense against the person who enters the debtor's premises and begins to dismantle or remove the debtor's vehicle...

Jurisdictional Appeal Brief, at 1.

Appellant's attempt to get another proverbial bite at the apple on this issue is contrary to the rules of this Court and should not be countenanced. Regardless, Appellant's Motion continues to raise issues which this Court properly held do not raise questions of public or great general interest that would warrant this Court's review. This Court properly denied Appellant's Jurisdictional Appeal on Propositions of Law # 1 and 2. Accordingly, this Court should decline to reconsider its decision denying Appellant's jurisdictional appeal.

III. CONCLUSION

Appellant attempts to utilize his Motion for Reconsideration to impermissibly reargue his case without identifying any error in this Court's decision declining his jurisdictional appeal in contravention of S.Ct.Prac.R. 12.08(B). Moreover, the Motion fails to highlight an issue of public or great general interest worthy of discretionary review. Accordingly, Appellees Ford Motor Credit Company and Automobile Recovery Services of Cincinnati, Inc. respectfully request that this Court deny the Motion for Reconsideration.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been electronically mailed or mailed via e-mail or regular U.S. Mail, postage prepaid this 25th day of March, 2019 to the following:

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