

IN THE COURT OF APPEALS OF OHIO

SEVENTH APPELLATE DISTRICT
MONROE COUNTY

STATE OF OHIO,

Plaintiff-Appellee,

v.

CARL E. WHITACRE,

Defendant-Appellant.

OPINION AND JUDGMENT ENTRY **Case No. 21 MO 0008**

Motion for Reconsideration

BEFORE:

Carol Ann Robb, David A. D'Apolito, Mark A. Hanni, Judges.

JUDGMENT:

Denied.

Atty. Dave Yost, Ohio Attorney General, *Atty. Andrea K. Boyd*, Assistant Attorney General, Ohio Attorney General's Office, 30 East Broad Street, 23rd Floor, Columbus, Ohio 43215 for Plaintiff-Appellee, and

Carl Whitacre, *pro se*, Noble Correctional Institution, 15705 SR 78, Caldwell, Ohio 43724 Defendant-Appellant.

Dated: July 6, 2023

PER CURIAM.

{¶1} This is Carl E. Whitacre’s second application for reconsideration in this appeal. Whitacre applies for reconsideration from our May 18, 2023 decision denying his first application for reconsideration. For the following reasons, this application is denied as well.

{¶2} App.R. 26(A)(1)(a) states an “[a]pplication for reconsideration * * * shall be made in writing no later than ten days after the clerk has both mailed to the parties the judgment * * * in question and made a note on the docket of the mailing as required by App. R. 30(A).”

{¶3} Here, Whitacre seeks reconsideration from this court’s judgment and opinion denying his reconsideration issued and mailed to the parties on May 18, 2023. His application was filed on June 2, 2023, fifteen days after May 18, 2023. Thus, the application was filed five days after the ten-day deadline and is untimely.

{¶4} Moreover, the test generally applied to an application for reconsideration is whether the applicant identifies “an obvious error in [the] decision or raises an issue for our consideration that was either not considered at all or was not fully considered by us when it should have been.” *Electronic Classroom of Tomorrow v. State Bd. of Education*, 10th Dist. Franklin No. 17AP-767, 2019-Ohio-1540, ¶ 3, *aff’d sub nom. Electronic Classroom of Tomorrow v. State Bd. of Education*, 166 Ohio St.3d 96, 2021-Ohio-3445, 182 N.E.3d 1170; *State v. Carosiello*, 7th Dist. Columbiana No. 15 CO 0017, 2018-Ohio-860, ¶ 12. Appellant’s instant filing does not meet this standard since it fails to present any comprehensible arguments arising from our May 18, 2023 decision.

{¶5} Accordingly, Appellant’s June 2, 2023 application for reconsideration is denied.

JUDGE CAROL ANN ROBB

JUDGE DAVID A. D’APOLITO

JUDGE MARK A. HANNI

NOTICE TO COUNSEL

This document constitutes a final judgment entry.