

IN THE COURT OF APPEALS FOR FAIRFIELD COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO

Plaintiff-Appellee

-vs-

JEREMY REED

Defendant-Appellant

JUDGMENT ENTRY

Case No. 2023 CA 00012

BRANDIE C. HEYER, CLERK
FIFTH DISTRICT
COURT OF APPEALS
FAIRFIELD COUNTY, OHIO
2024 FEB 28 PM 3:55
FILED

This matter is before the Court on plaintiff-appellee state of Ohio's Application for Reconsideration and *En Banc* Consideration. Therein, the state asks this Court to reconsider our decision in *State v. Reed*, 5th Dist. Fairfield No. 2023 CA 00012, 2024-Ohio-43, in which we reversed the trial court's denial of defendant-appellant Jeremy Reed's motion to sever. The state further requests the six judges of the Fifth District Court of Appeals conduct an *en banc* of said decision. We shall address the state's request for *en banc* consideration in a separate judgment entry.

Pursuant to App. R. 26(A), a party may file an application for reconsideration of an appellate court decision. The standard for reviewing such an application 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 considered at all or was not fully considered by us when it should have been." *Columbus v. Hodge*, 37 Ohio App.3d 68, 523 N.E.2d 515 (1987), paragraph one of the syllabus.

“An application for reconsideration is not designed for use in instances where a party simply disagrees with the conclusions reached and the logic used by an appellate court. App. R. 26 provides a mechanism by which a party may prevent miscarriages of justice that could arise when an appellate court makes an obvious error or renders an unsupportable decision under the law.” *State v. Owens*, 112 Ohio App.3d 334, 336, 678 N.E.2d 956 (1996).

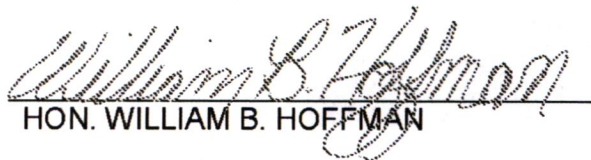
The state submits it “meets the standard for reconsideration because the Court’s decision did not fully consider two important issues that [the state] now brings to the Court’s attention *** 1) the Court did not appropriately apply the abuse of discretion standard to the trial court’s decision, and 2) the Court did not fully consider the Appellant’s burden at the trial court level to provide the trial court with sufficient information on which the issue of severance could be decided.” *State of Ohio’s Application for Reconsideration and En Banc Consideration* at p. 2.


Upon review of the state's application for reconsideration and our decision in *State v. Reed*, supra, we find the state has failed to call "to the attention of the court an obvious error in [our] decision or [to raise] an issue for our consideration that was either not considered at all or was not fully considered by us when it should have been." *Columbus v. Hodge*, supra.

The state's application for reconsideration is denied.

MOTION DENIED.

IT IS SO ORDERED.


HON. WILLIAM B. HOFFMAN

HON. PATRICIA A. DELANEY

HON. JOHN W. WISE