Filing # 184799 / 2023-L-114 / FILED: COURT OF APPEALS

Lake Co Common Pleas Court, Clerk Faith Andrews 05/30/2024 09:21 AM

STATE OF OHIO

)) SS. IN THE COURT OF APPEALS

COUNTY OF LAKE

ELEVENTH DISTRICT

CAREER & TECHNICAL ASSOCIATION,

JUDGMENT ENTRY

Plaintiff-Appellee,

CASE NO. 2023-L-114

- VS -

AUBURN VOCATIONAL SCHOOL DISTRICT BOARD OF EDUCATION,

Defendant-Appellant.

On April 19, 2024, appellant, Auburn Vocational School District Board of Education ("the Board"), filed a "Motion for Reconsideration as to the Dismissal of the Appeal from the November 20, 2023 Nunc Pro Tunc Judgment Entry." See Career & Technical Assoc. v. Auburn Vocational School Dist. Bd. of Edn., 2024-Ohio-1348, --- N.E.3d ---- (11th Dist.) ("CATA II"). Appellee, Career & Technical Association ("CATA"), has duly opposed the filing, and the Board replied to CATA's opposition.

The test this court applies when considering an application for reconsideration is whether the application "calls the attention to 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." *Matthews v. Matthews*, 5 Ohio App.3d 140, 143, 450 N.E.2d 278 (10th Dist.1981).

Moreover,

[a]n 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 (11th Dist.1996). The Board has failed to meet the requirements for reconsideration.

The Board provides no argument of legal foundation for its "motion." "It is not an appellate court's duty to guess the arguments of an appellant." (Citation omitted.) *Dennis v. Nickajack Farms, Ltd.*, 11th Dist. Geauga No. 2014-G-3188, 2014-Ohio-5468, ¶ 6. Moreover, even though App.R. 16(A)(7) applies to appellate briefs, we discern no reason not to extend its mandates to post-judgment applications or motions. That rule states an appellate brief must provide "[a]n argument containing the contentions of the appellant with respect to each assignment of error presented for review and the reasons in support of the contentions, with citations to the authorities, statutes, and parts of the record on which appellant relies." The instant "motion" contains no argument for review, nor rationale for its thesis, and no authorities or citations to the record to support the nebulous position described in the motion's caption. Because it is unclear that appellant has *any* basis whatsoever to apply for reconsideration, the "motion" is overruled.

The Board is advised and urged that, when seeking this court's consideration of a post-appeal pleading, that it *must* provide a foundation for its claims. Without some basis, the application or, in this case "motion," is de facto frivolous.

This matter has been lingering for too long. Despite the Board's dissatisfaction, the issues in this litigation have been fully and finally resolved. The Supreme Court of Ohio has declined jurisdiction over the Board's attempt at a discretionary appeal and there is *nothing* in the record or in the law to support the instant "motion."

The Board's "motion" is overruled.

PRESIDING JUDGE EUGENE A. LUCCI

MATT LYNCH, J.,

ROBERT J. PATTON, J.,

concur.