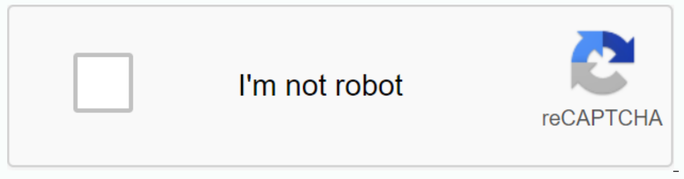

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Motion to reconsider massachusetts

As amended by 8 March 2010, the Commission shall report to the European Parliament Content; Action by the court, if any. Within 14 days of the date of the decision of the Court of Appeal, either party to the appeal proceedings may submit an application for reconsideration or amendment of the decision, unless that period is edied or increased by an order. It must state with particularity the legal or facts which the court has overlooked or misunderstood and must contain such arguments in support of the application that Movant wishes to put forward. Oral arguments in support of the application shall not be permitted, except for the order of the Court of Appeal which ruled on the appeal. The motion shall be decided by the quorum or by a panel of the Court of Appeal which ruled on the appeal. (b) the form of movement; Length. In addition to the court of appeal's authorisation, the application may not exceed 10 pages of text in monospace or 2000 words in proportional letters as defined in Rule 20(c) of the Reply. Unless the court of appeal requests a reassessment or amendment, the reply to the request for reconsideration or amendment shall not be upheld, but shall normally not be rejected in the absence of such a request. Any reply submitted under this provision shall comply with the form and length requirements in Rule 27(d) Filing and service. The application and any requested reply shall be submitted to the registry of the official of the Court of Appeal who issued the decision. A paper original and 7 copies of the application will be submitted to the Supreme Court. The application shall be made in electronic form to the Court of Appeal and no paper original or copies shall be required. Service of the application and any reply requested shall comply with Rule 13.e) Movement decision. After considering the application and any reply, the Court of Appeal may make a final decision on the case without a re-case or return it to the calendar for reconsideration or re-laying, or it may take other orders deemed appropriate in the circumstances of the particular case. An action on an application is at the decision of such court of appeal, which may award costs, including a reasonable fee for the legal representative, to the prevailing party. (f) Notification to the Supreme Court. The party requesting further appeal review shall immediately notify the Supreme Court of all measures taken to move. Mass. R.A.P. 27. January 28, 1986, with effect from February 1, 1986; whereas, therefore, it is necessary to 31 December 1991; 1 October 2018 with effect from 1 October 2018. As amended on 8 June 2004, the Commission shall report to the European Parliament be delivered and processed in accordance with Rule 9A. Such proposals aimed at reconsidering the complaints taken after The Mass of R. Civ. P. 50(a) shall be replaced by the following: In addition, the title of the proposal shall clearly state the words 'PROPOSAL FOR REVIEW'. After submission, the official shall send the application and supporting documents to the judge who ruled on the original application, but if that judge has retired or is otherwise unavailable, the official shall forward the proposal for regional administrative justice to the region in which the case is pending. If, after examining the application and supporting documents, the judge who ruled on the original application wishes to coincide with the hearing on the application for renegotiation, he may schedule a hearing. Alternatively, it may refer the application for reconsideration to the regional administrative judge for the region in which the case is pending. Mass. R. Vulture. Ct. 9DAdopted December 6, 1989, effective from 31. adopted July 18, 1989, effective October 2, 1989; From 1 October 2004, with effect from 1 July 2017, with effect from 1. COMMONWEALTH vs. JOHN DOWNS. 31 Mass. App. Ct. 467 September 11, 1991 - October 15, 1991 Barnstable County Present: KASS, FINE, & GILLERMAN, JJ. In a criminal case, the time for filing an application for reconsideration of an interim injunction of a court judge is not limited by the 30 days allowed for appeal against the judgment, but rather may be requested to reconsider within a reasonable time during the hearing of the case before the court. [469] In a criminal case, the application for review of a preliminary ruling by a court judge was correct, even if it was not accompanied by a suffote, which was aimed at asking the judge to reconsider his original decision. [469-470] If the judge had proposed to amend the preliminary ruling in the criminal case after he had submitted a proposal for review, a better direction would have been to give the parties a hearing and record an explanation of the amended decision. [470-471] The person who initiated the interview with the police officers at the scene of the accident in the car park was not entitled to miranda's warning in the circumstances. [471] Complaint received and sworn in by the Barnstable Division of the District Court Department on July 10, 1989. On appeal to the jury meeting of this department, the pretrial motion to suppress evidence was heard by Paul E. Ryan, J. The Commonwealth's request for a preliminary appeal was permitted by Joseph R. Nolan, J., of the Supreme Court for the District of Suffolk, and the appeal was notified to the Court of Appeal. Julia K. Vermynck, Assistant District Attorney, for the Commonwealth. J. The motion to suppress the defendant's testimony was wrongly authorised by a judge of page 468 of the District Court. On a preliminary Commonwealth appeal, permitted by a single Supreme Court justice under the Mass.R.Crim.P. 15 b) as amended, 397, Mass 1225 (1986), we have emptied the suppression of these statements. Two Barnstable police officers responded at 8:50 a.m. on July 9, 1989, to a report of an accident in the parking lot of The Candle Motor Lodge. At the scene of the accident, they met with the defendant, who said he backed into a parked car and sent the other car into a collision agreement with the third. One of the officers sizing up the defendant as a drink sufferer and asked where he came from before the accident. The defendant said he was at the Duck Inn Pub, located at Candlelight Motor Lodge. When asked how many drinks he had consumed there, the defendant replied: 'One. Sobriety tests followed and led to the arrest of the defendant for drink driving. After a trial in which he was found guilty, the defendant argued de novo trial before a jury of six. On April 6, 1990, [Note 1] the defendant filed a motion to suppress all statements made by the defendant prior to his arrest on July 9, 1989. His reason for the suggestion was that he was entitled to Miranda's warnings before police asked questions, which produced an inculpatory statement that he was drinking at the Duck Inn Pub. This proposal was accompanied by a cursory, but reasonable, affidavit, as required by mass.r.crim.p. 13 (a) (2), 378. In doing so, the judge heard a motion for suppression based on the affidavit of the defendant and a written report from one of the arrested officers. The motion was rejected without findings or explanation on July 17, 1990. Findings on the available movements for suppression are highly desirable and should be the norm, but their incourtesy does not constitute a reversible error. Commonwealth v Parham, 390. Commonwealth v Harding, 27. Smith, Criminal Practice and Procedure Section 1347 (2d ed. 1983 & Supp. 1991). On September 4, 1990, the defendant filed a motion to reconsider the rejection of his application for suppression. This proposal for reconsideration was accompanied by any further affidavit or new or additional grounds for suppressing the proposal. Without further hearing, finding, or explanation, the district court judge who acted in the case then turned 180 degrees and allowed the motion to be suppressed. 1. Procedural issues. On its preliminary appeal, the government first attacks the contribution of the suppression motion for procedural reasons. (a) Reliance on the Community v. Manila, 15 December 2004 submits that the time allowed for the application for reconsideration of an interim injunction by a court judge is limited by the 30 days allowed for appeal against the judgment. However, Mandile's opinion relates to disposal orders equal to the final judgment. In Manila, for example, there was a resolution on the basis of which the government sought to reconsider, a resolution that rejected the government's criminal complaint of prejudice. As regards interim orders which are not the handling of the case, a review may be requested within a reasonable time during the hearing of the case before the court. Commonwealth v Cronk, 396. Allowing a party to request a review of a previous order is consistent with the fair and effective administration of justice. Ibid. Judges are not doomed to refrain from entertaining second thoughts, which may be better. (b) The Community also submits that the application for reconsideration was incorrect because it was accompanied by a declaration on their honour, as required by the application for preparatory proceedings at the time when it was originally made, and because the application was unaccompanied for new or additional reasons (which could not reasonably have been known at the time when the application was originally made). That new or additional reasons are needed is suggested by reporters' remarks mass.r.crim.p. 13, Mass. Gen. Laws Ann., 215 (West Page 470 1980). See Smith, criminal practice and procedure § 1281 (2d ed. 1983). Rule governing review proposals, Mass.R.Crim.P. 13(a) (5), 378 Mass. 872 (1979), says that the application for preparatory proceedings may be renewed [u]pon proving that substantial justice requires a decision different from before. The sentence cited was thought to indicate that a lawyer should file an affidavit setting out the reasons why the application should be heard. Smith, criminal procedures and procedure § 1281. However, a desirable affidavit could be in the running of cases, especially if a lawyer tries to draw attention to new factual material, affidavit is not a condition of the application for review when the purpose is to draw the judge's attention to the newly decided case, see, for example, McCluskey, 395 Mass. 1003 (1985) or, as in the case before us, ask the judge to reconsider his original decision. The rules should not be managed inflexibly and certainly not in a way that serves no purpose other than the production of surplus paper. See Commonwealth v. Santosuosso, 23. Mass.R.Crim.P. 2 a), 378. Reporter's notes for Mass.R.Crim.P. 2(a), Mass. Gen. Laws Ann., Rules of Criminal Procedure 14-15 (West 1980). (c) The district court judge acted on the motion for reconsideration, adversely to the government, without hearing and, as we observed, without finding or explaining. the right to apply for preparatory proceedings shall mean the right to be heard. Commonwealth v Hurd, 393. Compare the Commonwealth in. Griffin, 19 Mass. App. Ct. 174 , 185 (1985), which held that it was not necessary to hold a hearing on a proposal identical to that already heard in the same case, when the lawyer admitted that he had nothing new to offer. Proposals for review often ask the judge, without changing the legal or factual premises of the original application, to reconsider the disposition of the original application. When they bring nothing new before the court, the proposals for reconsideration resemble the repetitive and identical motions made by the Commonwealth Court in. Griffin, a supra, said he did not require a hearing. That would place a disproportionate burden on Page 471 trial judges if essentially repetitive motions were needed for hearings. In practice, this is the case that routine proposals for reconsideration are routinely denied. However, if the application for review contains fresh materials which were not previously available, or where the judge proposes, on the basis of further thinking, to substantially change the disposition initially made, it is better practice to give the parties a hearing. Especially when reversing the field on a motion to suppress, the judge should place in the record a few words of explanation for the changed decision. This explanation may not be elaborated, but it should provide some clue to the judge's mind. The absence of any findings and explanations significantly impedes the review. Perhaps even worse, it creates an atmosphere of arbitrary decision-making. 2. Advantages of the suppression proposal. Since Miranda's warning question was submitted based on a written report by one of the arrested officers, we are in as good a position as the judge's proposal to decide whether the police were tardy in warning the defendant that he has the right to remain silent and so on. More specifically, the question is whether the defendant was subjected to an investigation when police asked him what had happened. Commonwealth v Tart, 408. Commonwealth v. Doyle, 12. The police interview with the defendant in the parking lot was initiated by the defendant. Interviewing people at the scene of an accident is a routine first step by which the police are sufficiently familiar to decide who and what to investigate. See id. at 793-794; Commonwealth v Merritt, 14. Neither the location of the interrogation, the state of the investigation at the time of questioning, nor the behaviour of the police brought an atmosphere of isolation and intimidation that required Miranda's warning. See Miranda in. Arizona 384 USA 436, 444 (1966); 446th Oregon v. Mathiason, 429. Commonwealth v. Doyle, 12. The defendant's statements to the police should not be suppressed. Page 472 allows movement to be suppressed. So ordered. FOOTNOTES [Note 1] We derive the date from the date stamp shown on the copy of the movement reproduced in the appendix to the record. Appendix.