

COPYRIGHT ROYALTY JUDGES
The Library of Congress

In re

Distribution of Digital Audio Recording
Royalty Funds

CONSOLIDATED
Docket No. 2008-3 CRB DD
(2007-2011 SRF)

ORDER DENYING CURRY MOTION FOR RECONSIDERATION

On November 21, 2019, Mr. Eugene Curry, a *pro se* participant in this proceeding, filed a document titled Motion for Re-Consideration to the Order Denying Re-Submit of Late Written Direct Statement of Eugene Curry due to the Absence of an Explanation of a Reason Failing to Meet the Deadline and Failure to Seek Extension of Time in Advance of the Dead Line (Nov. 21, 2019) ([Motion](#)). AARC filed a timely [Opposition](#), and Mr. Curry filed a timely [Reply](#). For the reasons set forth below, the Judges **DENY** the Motion.

Arguments

Mr. Curry asks the Judges to reconsider their earlier order denying Mr. Curry’s request for leave to file a late written direct statement in this proceeding. *See Order Denying Curry Motion to Resubmit Written Direct Statement* (Nov. 15, 2019) ([November 15 Order](#)). He appears to argue that the Judges should excuse his failure to file his WDS by the deadline because he was busy around the time of that deadline with matters related to other proceedings before the Judges, as well as caring for a friend and three minor children. *See Motion* at 1. He attaches to his Motion correspondence relating to direct licenses for use of a musical composition, filings by copyright owners and recording artists in the *Web V* proceeding, and a “sample license agreement” dated January 24, 2017, between Tajai Music Inc. (Mr. Curry’s music publishing entity) and The Executive Club Worldwide.

AARC argues that the Judges should deny the motion because it does not meet the Judges’ standard for granting a motion for reconsideration. *See Opposition* at 2.

In his Reply, Mr. Curry presents what he describes as new evidence, in the form of an October 2017 article from an online publication called Law360, reporting on a hearing in a lawsuit between AARC and two automobile manufacturers, and a July 2014 opinion piece from another online publication called TechDirt. Mr. Curry contends that these articles demonstrate that AARC distributes only a small portion of the royalties it collects to the members it represents, and that they cast doubt on AARC’s “right to collect theses [sic] particular royalty payments in the first place” Reply at 1.¹

Discussion

Although the Judges’ procedural regulations are silent on the standard for reconsideration of a ruling on a motion or other interlocutory ruling, the Judges have previously found that a

¹ The Judges make no finding regarding Mr. Curry’s contentions or their relevance to the issue before the Judges.

motion for reconsideration should be granted only where “(1) there has been an intervening change in controlling law; (2) new evidence is available; or (3) there is a need to correct a clear error or prevent manifest injustice.” *Order Denying SoundExchange's Motion to Reconsider the Board's Order Requiring, In Part, the Production of Certain Income Tax Returns*, Docket No. 2005-1 CRB DTRA at 1 (May 3, 2006) (citing *Regency Communications Inc. v. Cleartel Communications, Inc.* 212 F. Supp. 2d 1, 3 (D.D.C. 2002) and *Firestone v. Firestone*, 76 F.3d 1205, 1208 (D.C. Cir. 1996)); *see also* *Order Denying Powell Motion for Reconsideration*, Docket No. 16-CRB-0010 SD (2014-17) at 1 (Oct. 22, 2019); *Order Denying IPG Motion to Reconsider Preliminary Hearing Order Relating to Claims Challenged by SDC*, Docket No. 16-CRB-0010 SD (2014-17) at 1 (May 14, 2013). The Judges apply this strict standard to encourage parties to put forward complete arguments in the first instance, rather than making repetitive or piecemeal arguments through multiple motions on the same issue.

The Motion fails to meet the Judges’ standard. The Motion does not direct the Judges’ attention to any intervening change in controlling law. It includes no relevant evidence that is “new”—*i.e.*, was not available to Mr. Curry *at the time he asked the Judges for leave to file a late WDS*. The Motion also makes no persuasive argument that the *November 15 Order* contained errors or was otherwise manifestly unjust.

For the foregoing reasons, the Judges **DENY** the Motion.

SO ORDERED.

Jesse M. Feder
Chief Copyright Royalty Judge

DATED: January 15, 2020.