

IN THE SUPREME COURT OF OHIO

State of Ohio  
PLAINTIFF-APPELLEE,

06-2200

S. CT CASE NO. \_\_\_\_\_

-VS-

ON APPEAL FROM THE 10 DIST  
COURT OF APPEALS. Franklin  
COUNTY OHIO.

Tyjuan VanMoore  
DEFENDANT-APPELLANT

COURT OF APPEALS CASE NO.  
06 AP 892

RECEIVED  
NOV 27 2006  
MARCIA J MENGEL, CLERK  
SUPREME COURT OF OHIO

NOTICE OF APPEAL

FILED  
NOV 27 2006  
MARCIA J. MENGEL, CLERK  
SUPREME COURT OF OHIO

PLAINTIFF-APPELLEE:

DEFENDANT-APPELLANT, PRO SE

RON O'BRIEN  
NAME

Tyjuan VANMOORE  
NAME

Franklin Co. PROS.  
ADDRESS

Noble C.I.  
ADDRESS

373 S. High St.  
43215  
Columbus, Ohio ~~43224~~

15708 McConnelsville Rd.  
Caldwell, Ohio 43724

CERTIFICATE OF SERVICE

I THE UNDERSIGNED STATE THAT A TRUE COPY OF THIS NOTICE  
OF APPEAL WAS SENT TO ALL PARTY(S) INVOLVED ON THIS 220  
DAY OF NOV., 2006. BY U.S. MAIL.

BY: Tyjuan VanMoore

IN THE SUPREME COURT OF OHIO

State of Ohio

PLAINTIFF-APPELLEE

S. CT CASE NO. \_\_\_\_\_

VS

ON APPEAL FROM THE 10<sup>th</sup> DIST  
COURT OF APPEALS. Franklin  
COUNTY OHIO.

TY JUAN VAN MOORE

DEFENDANT-APPELLANT

COURT OF APPEALS CASE NO.

06 AP 872

MEMORANDUM IN SUPPORT OF JURISDICTION OF APPELLANT

TY JUAN VAN MOORE # 509-285

NAME AND NUMBER (DEFENDANT-APPELLANT)

NOBLE C. F.

ADDRESS

15708 McConnelsville Rd.

Caldwell, Ohio 43724

RON O'BRIEN

PROSECUTION (PLAINTIFF-APPELLEE)

Franklin Co. PROJ.

ADDRESS

373 S. High St.

Col. Off. 43215

CERTIFICATE OF SERVICE

ON NOV. 20 2006 A TRUE COPY WAS SENT TO

THE PROSECUTOR OF Franklin COUNTY OHIO BY U.S. MAIL

BY: Tyjuan Van Moore

NOTICE OF APPEAL OF APPELLANT

APPELLANT PRO SE, Tyjuan VanMoore HEREBY GIVES NOTICE OF APPEAL TO THE SUPREME COURT OF OHIO FROM THE JUDGMENT OF THE 10 DIST COURT OF APPEALS OF Franklin COUNTY OHIO, INWHICH WAS ENTERED ON THE 12 DAY OF Oct, 2006 IN RE: CASE NO. 06AP872 .

THIS CASE RAISES A SUBSTANTIAL CONSTITUTIONAL QUESTION, AND INVOLVES A FELONY AND IS ONE OF PUBLIC OR GREAT GENERAL INTEREST.

Tyjuan VanMoore  
NAME

Tyjuan VanMoore  
SIGNATURE

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FIRST PROPOSITION:

THE APPEALS COURT INPROPERLY DENIED LEAVE TO APPEAL AND THE MERITS WHICH ENTITLE ME TO THE RELIEF SOUGHT.

~~SECOND PROPOSITION:~~

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STATE V. VANMOORE (2006) APP. NO. 06 AP 892

WHY THIS CASE SHOULD BE CONSIDERED

EXPLANATION OF WHY THIS CASE IS A CASE OF PUBLIC OR GREAT GENERAL INTEREST AND INVOLVES A SUBSTANTIAL CONSTITUTIONAL QUESTION

IN A CIVILIZED SOCIETY OF LAWS EXISTENCE OF THE GOVERNMENT WILL BE IMPERILED IF IT FAILS TO OBSERVE THE LAWS SCRUPULOUSLY.

THE SUPREME COURTS DUTY IS TO INTERPIT THE LAW WHEN CALLED UPON AND HOW ITS RELATIVE TO THE CONSTITUTION. THE CONSTITUTION WAS WRITTEN TO PROTECT AS IN THE STATE LAWS WERE WRITTEN TO PROTECT AS WELL AS SERVE. THE APP.RULES PERMITS A INMATE TO SEEK LEAVE UPON A REASONABLE EXPLANATION WHICH MUST BE TRUTH, SO WHEN SUCH LEAVE IS DENIED, IS IT NOT A DENIAL OF THE CONSTITUTIONAL RIGHTS SUCH AS THE RIGHT TO ADDRESS AND RE-DRESS AN INJURY DONE TO ONES PERSON OR LIBERTY. THE INTERPITATION OF THE APP. RULE 5(A) HAS BEEN ABUSED BY THE LOWER COURTS AND IT IS THE CONSTITUTIONAL DUTY FOR THIS COURT TO INTERPITATE THIS RULE SINCE THE TRUTH IS NOT REASONABLE ENOUGH FOR THE LOWER COURTS. IT IS A ABUSE OF DISCRETION FOR AN APPEAL COURT TO SAY ONE REASONABLE EXPLANATION IS NOT REASONABLE ENOUGH TO ANOTHER. THIS IS A VIOLATION TO EQUAL PROTECTION OF THE LAWS.

THESE ACTS VIOLATE BOTH FEDERAL AND STATE CONSTITUTIONAL RIGHTS SECURED.

STATEMENT OF THE CASE

APPELLANT WAS INDICTED: SEE Attachments

APPELLANT PLED: GUILTY / NOT GUILTY & PROCEEDED TO JURY TRIAL / OR OTHER (IF THE MATTER PROCEEDED TO JURY TRIAL:)

THE JURY VERDICT WAS GUILTY OF: N/A

THE COURT THEN SENTENCED APPELLANT TO A CONSECUTIVE CONCURRENT SENTENCE OF: 3 yrs IN THE OHIO DEPT. OF REBILITATION.

A NOTICE OF APPEAL WAS FILED AND THIS CASE IS NOW BEFORE THIS COURT ON APPEAL IN RE: TO THE JUDGMENT OF Denial ENTERED ON Oct 12, 2006

## STATEMENT OF THE FACTS

FILED ON DEC. 14th 2005 THE DEFENDANT ENTERED A GUILTY PLEA OF *Four* YEARS CONTRARY TO THE LAW.

ON SEPT 5th 2006 AN LEAVE TO APPEAL WAS FILED PURSUANT TO APP.R.5(A) AND THE "TRUTH" FOR SUCH DELAY WAS GIVEN UNDER OATH.

ON OCT. 12th 2006 LEAVE TO APPEAL WAS DENIED AS NOT REASONABLE ENOUGH.

I AM NOW IN THIS HONORABLE SUPREME COURT FOR RELIEF SOUGHT ON DIRECT APPEAL.

**PROPOSITION(S) OF LAW**

THE APPEALS COURT INPROPERLY DENIED LEAVE TO APPEAL AND THE MERITS  
WHICH ENTITLE ME TO THE RELIEF SOUGHT.

PURSUANT TO APP.R.(5) PERMITS A LEAVE TO APPEAL UPON A REASONABLE EXPLANATION.  
A REASONABLE EXPLANATION IS DEFINED <sup>AS</sup> SIMPLE TRUTH OR A SOMEWHAT LOGICAL EXPLANATION  
FOR WHY TO SEEK LEAVE.

THE MEMORANDUM IN SUPPORT TO SUCH LEAVE TO APPEAL SUPPORTED BY AFFIRMATION UNDER OATH  
AND VERY REASOANBLY EXPLAINED SATISFIES THE CLAUSE BUT WAS DISMISSED AS NOT GOOD  
ENOUGH. THE APPEALS COURT IGNORED THE SUBMITTED AUTHORITIVE SUPPORT WHICH BASED ON  
OTHER CASES INWHICH WERE AS HIGH AS FOUR YEARS LATE WERE GRANTED LEAVE WITH LITTLIER  
AUTHORITIVE EXPLANATION THEN MINE SUBMITTED. SEE: STATE V. NYBERG (JUNE 21,1999)  
FAYETTE APP. NO. CA98-11-018, STATE V. ROBINSON 655 Ne2d 276 (Ohio App. 10th Dist 1995),  
STATE V. HOUSE (Mont. County 1999) 1999 Ohio App Lexis 499

in STATE V. CROMLISH (SEPT 1994) FRANKLIN APP. NOS 94APA06-855, 94APA06-857  
UNREPORTED. THE COURT HELD " APP.R(5) REQUIRES AN DEFENDANT TO SET FORTH THE REASON(S)  
FOR FAILURE OF THE APPELLANT TO PERFECT AN APPEAL AS OF RIGHT THIS COURT HAS OPINED THAT  
APP.R.5(A) REQUIRES **ONLY** A REASONABLE EXPLANATION OF THE FAILURE TO PERFECT A TIMELY  
APPEAL.

NO CASE TO MY KNOWLEDGE HAS BEEN BROUGHT UPON TO THE OHIO SUPREME COURT INWHICH  
INTERPITATES THE APP.R.5(A) SO FOR TO SET A LIST OF "REASONABLE EXPLANATIONS" WHICH  
WOULD ENTITLE A DEFENDANT TO LEAVE. THE ABOVE CASES QUPTED HAS HELD THE FOLLOWING "IS"  
REASONABLE AND GRANTED SUCH AS REASONABLE " I DIDNT KNOW I HAD A RIGHT TO APPEAL,  
I WAS UNABLE TO HIRE COUNSEL, MY COUNSEL TOLD ME HE WOULD FILE A APPEAL BUT DIDN'T"  
THESE EXPLANATIONS WERE "ALL" GOOD ENOUGH FOR INMATES TO BE GRANTED LEAVE, EVEN AFTER  
A LONG AS FOUR YEARS LATE.

THE TRUTH INWHICH I SUBMITTED DUE TO MY FAILURE TO FILE MORE TIMELY IS MORE STRENGEST  
THEN THE ABOVE BUT YET DENIED AS NOT GOOD ENOUGH WHICH DENIED ME MY RIGHT TO ACCESS THE  
COURT TO REDRESS AN INJURY DONE TO ME.

THE SUPREME COURT CONSTITUTIONALLY MUST GRANT SUCH REVVEIW AS TO SETTLE THIS LOWER  
COURT ABUSE OF POWERS. THE APPEALS COURTS DO NOT HAVE THE POWER TO CHANGE THE LAWS  
WRITTEN BY LEGISLATOR, SO THERFORE THE APPEALS COURT "MUST" FOLLOW AND OBEY THE LAWS  
WHICH INCLUDED A "REASONABLE EXPLANATION" FOR IF NOT THEN THE APPEALS COURT UPON  
THERE DISCRETION CHANGED THE LEGISLATION LAW WHICH "IS" A ABUSE OF POWERS AND DUTY.

END OF ARGUEMENT

CONCLUSION

FOR THE REASONS DISCUSSED, I APPELLANT RESPECTFULLY REQUEST THAT THIS COURT GRANT JURISDICTION AND ALLOW THIS CASE TO BE HEARD SO THAT THE IMPORTANT ISSUES PRESENTED IN THIS MATTER WILL BE FAIRLY REVIEWED ON THE MERITS.

IN FINAL:

" FIRST, IT HAS ALREADY BEEN ESTABLISHED THAT  
EQUAL PROTECTION OF THE LAW MEANS THE PROTECTION  
OF EQUAL LAWS."

THESE ARE THE WORDS FROM THE HONORABLE JUSTICE PAUL PFEIFER IN STATE V. PEOPLES 102 Ohio.st.3d 460. SO FOR THE APPEALS COURT TO TAKE IT UPON THEMSELVES OUTSIDE THE FAIR PROTECTION OF EQUALNESS AND SAY TO ONE THAT SUCH REASONABLE EXPLANATION IS NOT GOOD ENOUGH VIOLATES THE INTERGRAL PRINCIPLE OF THIS NATION. WHICH JUSTICE PAUL PFEIFER AGREES WHEN HE FURTHER HELD " WHATS IMPORTANT TO REMEMBER IS THAT OUR STATE AND FEDERAL CONSTITUTIONS ARE MEANT TO APPLY TO EVERY ONE AN ALTHOUGH IT'S AN ELUSIVE GOAL TO ACHIEVE, IT'S REASSURING TO KNOW THAT THE CONCEPT OF FAIR PLAY IS AN INTERGRAL PRINCIPLE OF OUR NATION."

IT WOULD BE A DENIAL OF RIGHTS IF THIS APPEAL BE FURTHER DENIED AND AN INTERPITATION TO BE IGNORED PURSUANT TO FAIR PLAY AND CONSTITUTIONAL PROTECTION SECURED.

I PRAY THAT SUCH REVIEW BE GRANTED IN THIS CASE.

RESPECTFULLY SUBMITTED,

Tejima Vannure  
DEFENDANT-APPELLANT

INSTITUTIONAL NUMBER 509-285

ADDRESS

TYJUAN VANMOORE  
15708 McConnelsville Rd.  
Caldwell, ohio 43724

END

APPENDIX K. AFFIDAVIT OF INDIGENCY

IN THE SUPREME COURT OF OHIO

Affidavit of Indigency

I, Tyjuan Van Moore, do hereby state that I am without the necessary funds to pay the costs of this action for the following reason(s):

[Note: S. Ct. Prac. R. XV, Sec. 3, requires your affidavit of indigency to state the reason(s) you are unable to pay the docket fees and/or security deposit. Failure to state specific reasons that you are unable to pay will result in your affidavit being rejected for filing by the Clerk.]

I ONLY RECEIVE \$ 18 A MONTH FOR STATE PAY AND I HAVE NO PROPERTY OR CHATTEL TO OFFER AS TO COVER THE COSTS OF THIS ACTION.

I AM THE TRUE SPIRIT MEANING OF INDIGENT, FURTHER AFFIANT SAYETH NAUGHT

Pursuant to Rule XV, Section 3, of the Rules of Practice of the Supreme Court of Ohio, I am requesting that the filing fee and security deposit, if applicable, be waived.

Tyjuan Van Moore  
Affiant

Sworn to, or affirmed, and subscribed in my presence this 15<sup>th</sup> day of November, 2006.

Cindy A. Arnold  
Notary Public

My Commission Expires: 2-9-11



CINDY A. ARNOLD  
Notary Public  
In and for the State of Ohio  
My Commission Expires  
February 9, 2011

[Note: This affidavit must be executed not more than six months prior to being filed in the Supreme Court in order to comply with S. Ct. Prac. R. XV, Sec. 3. Affidavits not in compliance with that section will be rejected for filing by the Clerk.]

FILED  
COURT OF APPEALS  
FRANKLIN CO. OHIO

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

2006 OCT 12 PM 3:43

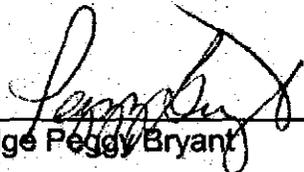
CLERK OF COURTS

State of Ohio,	:	
	:	No. 06AP-892 ✓
Plaintiff-Appellee,	:	(C.P.C. No. 05CR-07-5073)
	:	No. 06AP-893
v.	:	(C.P.C. No. 05CR-07-4596)
	:	No. 06AP-894
Tyjuan M. Vanmoore,	:	(C.P.C. No. 05CR-06-3844)
	:	
Defendant-Appellant.	:	(REGULAR CALENDAR)

JUDGMENT ENTRY

For the reasons stated in the memorandum decision of this court rendered herein on October 10, 2006, it is the judgment and order of this court that defendant's motion for leave to appeal, filed on September 5, 2006, is denied. Costs to defendant.

BRYANT, FRENCH & McGRATH, JJ.

By  \_\_\_\_\_  
Judge Peggy Bryant

**ON COMPUTER 6**

Pro Se

IN THE COURT OF APPEALS OF OHIO  
TENTH APPELLATE DISTRICT

FILED  
COURT OF APPEALS  
FRANKLIN CO. OHIO  
2006 OCT 10 PM 3: 54  
CLERK OF COURTS

State of Ohio,	:	
	:	No. 06AP-892
Plaintiff-Appellee,	:	(C.P.C. No. 05CR-07-5073)
	:	No. 06AP-893
v.	:	(C.P.C. No. 05CR-07-4596)
	:	No. 06AP-894
Tyjuan M. Vanmoore,	:	(C.P.C. No. 05CR-06-3844)
	:	
Defendant-Appellant.	:	(REGULAR CALENDAR)

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MEMORANDUM DECISION

Rendered on October 10, 2006

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*Ron O'Brien*, Prosecuting Attorney, and *Laura R. Swisher*, for appellee.

*Tyjuan M. Vanmoore*, pro se.

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ON MOTION FOR LEAVE TO FILE DELAYED APPEAL.

BRYANT, J.

{¶1} Pursuant to App.R. 5(A), defendant-appellant, Tyjuan M. Vanmoore, filed on September 5, 2006 a motion for leave to file a delayed appeal. Because defendant fails to meet the requirements of App.R. 5(A), we deny the motion.

{¶2} App.R. 5(A)(2) requires that defendant's motion for delayed appeal "set forth the reasons for the failure of the appellant to perfect an appeal as of right." "Whether to grant or refuse leave to file a delayed appeal is within the sound discretion of the appeals court. \* \* \* A delayed appeal should be granted where it appears on the face of

the record the overruling of such motion would result in a miscarriage of justice." *State v. Pryor* (Sept. 28, 2001), Mahoning App. No. 01 C.A. 166. While App.R. 5(A), as amended, relieves a party seeking leave to file a delayed appeal of the obligation to show the probability that claimed errors occurred, the rule does not relieve the party from demonstrating a reasonable explanation of the basis for failure to perfect a timely appeal. *State v. Cromlish* (Sept. 1, 1994), Franklin App. No. 94APA06-855.

{¶3} Here, defendant entered guilty pleas on December 13, 2005, in three separate cases. His September 5, 2006 motion fails to set forth any reason for defendant's failure to file a timely appeal, much less a reasonable explanation for the delay of approximately nine months in filing his motion seeking leave to appeal. Because defendant failed to comply with the requisites of App.R. 5(A), we deny his motion for leave to appeal.

*Motion for leave to file  
delayed appeal denied.*

FRENCH and McGRATH, JJ., concur.

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