

IN THE SUPREME COURT OF OHIO

07 - 1381

STATE OF OHIO

S.C.T. NO:

V.

ON APPEAL FROM THE 5th DIST. APPEALS COURT FROM GUERNSEY CO. OHIO

ARKIMEEM VAUGHN

APPEALS CASE NO: 07 CA 17

NOTICE OF APPEAL

I, APPELLANT ARKIMEEM VAUGHN GIVE NOTICE OF APPEAL TO THE ENTRY FILED ON THE 27th DAY OF APRIL 2007 FROM THE FIFTH DISTRICT COURT OF APPEALS

RESPECTFULLY SUBMITTED

Arkimeem Vaughn
ARKIMEEM VAUGHN # 535-592
NOBLE CORR. INST.
15708 mcCONNELSVILLE RD.
CALDWELL OHIO 43724

CERTIFICATE OF SERVICE

I HEREBY STATE A TRUE COPY OF THIS NOTICE WAS SENT TO THE GEURNSEY COUNTY PROSECUTOR ON THIS 5 DAY OF July 2007 BY U.S. MAIL.

Arkimeem Vaughn
APPELLANT

RECEIVED
JUL 27 2007
CLERK OF COURT
SUPREME COURT OF OHIO

FILED
JUL 27 2007
CLERK OF COURT
SUPREME COURT OF OHIO

IN THE SUPREME COURT OF OHIO

STATE OF OHIO (APPELLEE)

ON APPEAL FROM THE 5th DIST.
COURT OF APPEALS, GUERNSEY COUNTY
OHIO

V.

APPEAL NO: 07 CA 12

ARKIMEEM VAUGHN (APPELLANT)

SUPREME COURT CASE NO: _____

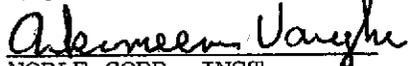
MOTION TO FILE DELAYED APPEAL

APPELLANT RESPECTFULLY MOVES THIS HONORABLE COURT PURSUANT TO SUP. RULE II,
SEC. 2(A)(4)(A) FOR LEAVE TO FILE A DELAYED APPEAL AND A NOTICE OF APPEAL.

THIS CASE INVOLVES A FELONY AND A CONSTITUTIONAL QUESTION AND MORE THAN 45
DAYS HAVE PASSED SINCE THE APPEALS COURT RULING WAS FILED IN THIS CASE.

A MEMORANDUM IN SUPPORT IS ATTACHED.

RESPECTFULLY SUBMITTED



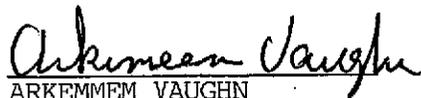
NOBLE CORR. INST.

15708 McCONNELSVILLE RD.

CALDWELL OHIO 43724

CERTIFICATE OF SERVICE

I HEREBY STATE THAT ON THIS 5 DAY OF July, 2007 A TRUE COPY WAS
SENT TO THE GUERNSEY COUNTY PROSECUTOR BY U.S. MAIL.



ARKEMMEM VAUGHN

MEMORANDUM IN SUPPORT

ON THE 27th DAY OF APRIL 2007, THE FIFTH DISTRICT APPEALS COURT FILED ITS JUDGMENT ENTRY HOWEVER I WAS UNABLE TO FILE A NOTICE OF APPEAL TO THIS COURT WITHIN THE TIME PERMITTED (45 DAYS) BECAUSE OF THE FOLLOWING:

I WAS NOT IN RECEIPT OF THE JUDGMENT ENTRY UNTIL I MAILED OUT FOR A COPY ALMOST THREE WEEKS LATER (AFTER FILING DATE) AND THEN I MAILED THE NOTICE OF APPEAL WITHIN TIME, ON THE 8th DAY OF JUNE, HOWEVER THE SUPREME COURT DID NOT RECEIVE IT UNTIL AFTER THE EXPIRATION DATE.

THE INSTITUTION (NOBLE CORR INST.) HAS A SOLE DUTY TO MAIL OUT INMATE MAIL IN A TIMELY AND LEGAL FASION, AND IT HAS BEEN A RULE FOR SUCH DECLINE FOR AN INSTITUTION TO MAIL LEGAL MATERIAL OUT WOULD DEPRIVE A MAN OF HIS RIGHTS TO THE ACCESS OF THE COURTS.

THE EXHIBIT ENCLOSED SHOULD SATOSFY THIS COURT AS TO WARRANT THE APPROVAL OF DELAYED APPEAL DUE TO THE RECEIPT FROM NOBLE CORRECTIONAL INST. CASHIER OFFICE THAT IT WAS PROCESSED IN A TIMELY MANNER BUT SENT OUT LATE.

IF THIS COURT WERE TO ACCEPT THIS MOTION I WOULD RAISE THE FOLLOWING ISSUES:

- * MY SENTENCE IS CONTRARY TO LAW AND CONSTITUTION
- * MY COUNSEL WAS INEFFECTIVE
- * I WAS DEPRIVED AND DENIED MY "RIGHT" TO APPEAL

IT WOULD MOST DEFFENTLY BE A MISCARRIAGE OF JUSTICE FOR THIS COURT TO NOT AWARD RELIEF INWHICH THE CONSTITUTION CALLS FOR AND DEMANDS.

IN CONCLUSION

I PRAY THAT THIS COURT SHALL GRANT SUCH DELAYED APPEAL AS TO PROTECT THE RIGHTS SECURED TO ME THROUGH THE CONSTITUTION OF THE UNITED STATES AS WELL AS THE STATE OF OHIO.

RESPECTFULL&Y SUBMITTED:

Arkimean Vaughn

AFFIDAVIT OF VERIFICATION

I ARKIMEEM VAUGHN ON THIS 2nd DAY OF July, 2007 DO HEREBY VERIFY THAT I HAVE READ THE FORGOING MOTION AND THAT THE MATTERS STATED THEREIN ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Arkimeem Vaughn
ARKIMEEM VAUGHN

SWORN AND SUBSCRIBED BEFORE ME THIS 2nd DAY OF July 2007

Sandra J. Ball
NOTARY

SEAL:



SANDRA J. BALL
Notary Public, State of Ohio
My Commission Expires 01-21-2011

IN THE COURT OF APPEALS FOR GUERNSEY COUNTY, OHIO

FIFTH APPELLATE DISTRICT

FILED
COURT OF APPEALS
APR 27 2007

GUERNSEY COUNTY, OHIO
Teresa A. Dankovic, Clerk of Court

STATE OF OHIO

Plaintiff-Appellee

-vs-

ARKIMEEM VAUGHN

Defendant-Appellant

CASE NO. 07-CA-12

JUDGMENT ENTRY

This matter came before the Court for consideration of Appellant's pro se motion for leave to file a delayed appeal pursuant to App.R. 5(A), motion for appointment of counsel, and motion for transcripts at State's expense. No response has been filed.

On October 4, 2006, Appellant was sentenced to serve an aggregate term of forty months of imprisonment for three counts of Trafficking in Cocaine, a violation of R.C. 2925.03(C)(4)(a), fifth degree felonies, and one count of Possession of Cocaine, in violation of R.C. 2925.11(C)(4)(a), a fifth degree felony. Appellant now seeks leave to appeal this aggregate, non-minimum, consecutive sentence.

Whether to grant or deny leave to file a delayed appeal is in the sound discretion of the appellate court. *State v. McGahan* (1949), 86 Ohio App. 283, 88 N.E.2d 613. 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. Bendnarik (1954), 101 Ohio App. 339, 123 N.E.2d 31. "Lack of effort or imagination, and ignorance of the law, are not such circumstances and do not automatically establish good cause for failure to seek timely relief". *State v. Reddick* (1995), 72 Ohio St.3d 88, 1995-Ohio-249, 647 N.E.2d 784.

Upon review of Appellant's arguments in support, the Court finds that Appellant has failed to establish good cause for delay in filing a timely appeal. Appellant has further failed to show that the denial of a delayed appeal would result in a manifest miscarriage of justice. Accordingly, Appellant's application for leave to file a delayed appeal is hereby denied. Appellant's motions for appointment of counsel, and transcripts at State's expense are hereby denied as being moot.

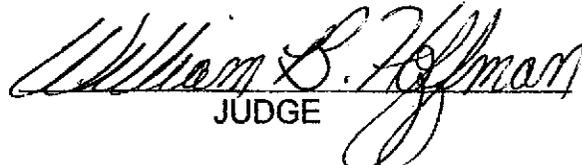
APPEAL DISMISSED.

COSTS TAXED TO APPELLANT.

IT IS SO ORDERED.


JUDGE


JUDGE


JUDGE