

IN THE SUPREME COURT
OF OHIO

STATE OF OHIO,
Plaintiff-Appellee,

V.

JUSTIN A. BOBB,
Defendant-Appellant.

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Court of Appeals Case No. CT07-0076

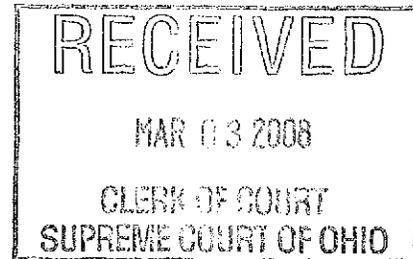
08-0481

On Appeal from the Muskingum
County Court of Common Pleas
Court of common Pleas Case
Number:

NOTICE OF APPEAL

Justin A. Bobb # 545-937
Noble Correctional Institution
15708 McConnelville Rd.
Caldwell, Ohio 43724.

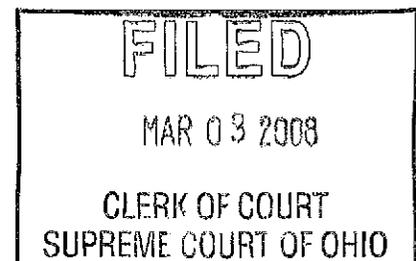
Counsel for Appellant, Justin Bobb, Pro-se.



Vs.

D. Micheal Haddox
Muskingum County Prosecuting Attorney
27 North Fifth Street
Zanesville, Ohio 43701.

Counsel for Appellee, State of Ohio.



Defendant-Appellant, Justin A. Bobb, hereby gives notice of appeal to the Supreme court of Ohio from the judgment of the Muskingum County courts of Appeals, Fifth Appellate District, entered in the Court of Appeals case number CT07-0076 on the day of January 25, 2008.

This case raises a substantial constitutional question and is one of public or great general interest.

Respectfully Submitted

x Justin Bobb 545-937

Justin A. Bobb # 545-937
N.C.I.
15708 McConnelville Rd.
Caldwell, Ohio 43724.

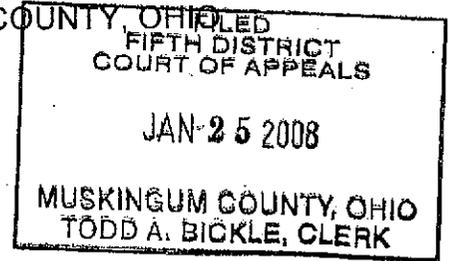
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing NOTICE OF APPEAL TO THE OHIO SUPREME COURT was sent by regular U.S. mail to the Muskingum County Prosecuting Attorney, C/O Clerk of Court at 401 Main Street Zanesville, Ohio 43701. On this 26 day of FEBRUARY 2008.

x Justin Bobb 545-937

IN THE COURT OF APPEALS FOR MUSKINGUM COUNTY, OHIO

FIFTH APPELLATE DISTRICT



STATE OF OHIO

Plaintiff-Appellee

-vs-

JUSTIN A. BOBB

Defendant-Appellant

CASE NO. CT07-0076

JUDGMENT ENTRY

This matter came before the Court for consideration of Appellant's pro se motion to file a delayed appeal pursuant to App.R. 5(A). The State has filed a response in opposition.

Appellant seeks to appeal the trial court's judgment of February 12, 2007. He states his attorney refused to assist him in perfecting an appeal.

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.

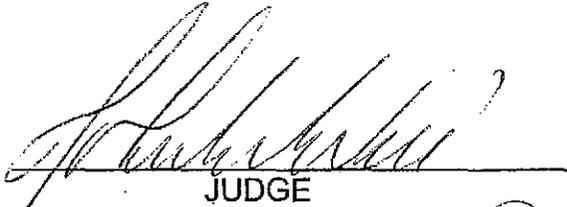
One of the factors which may be considered by the Court, and which shows a lack of effort on the part of this Appellant, is the nature and degree of untimeliness for the delay. In this case, Appellant pled and was sentenced almost one year ago and has failed to present any reason to justify such a delay in requesting to be permitted to appeal. His assertion that the delay was caused by his attorney's failure to render assistance leads the Court to believe Appellant was aware of his right to appeal for months without taking any action.

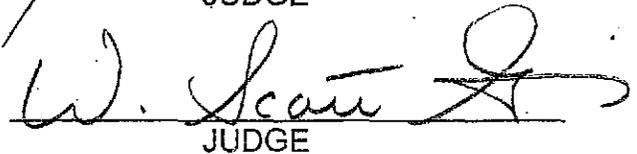
For the reasons stated above, Appellant has not established good cause for his delayed appeal and said application is denied.

APPEAL DISMISSED.

COSTS TAXED TO APPELLANT.

IT IS SO ORDERED.


JUDGE


JUDGE


JUDGE