

ORIGINAL

IN THE SUPREME COURT OF OHIO  
2009

STATE OF OHIO,

Plaintiff-Appellee,

-vs-

TIMOTHY J. HOWARD,

Defendant-Appellant.

Case No. 2009-1490

On Appeal from the  
Franklin County Court  
of Appeals, Tenth  
Appellate District

Court of Appeals  
Case No. 08AP-177

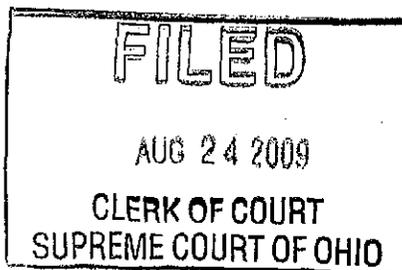
**MEMORANDUM OF PLAINTIFF-APPELLEE OPPOSING DELAYED APPEAL**

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DEFENDANT-APPELLANT, PRO SE



## MEMORANDUM

Defendant Timothy Howard seeks to pursue a delayed appeal from the Tenth District's June 9, 2009, judgment affirming his convictions for aggravated murder and tampering with evidence. To justify his failure to file a timely appeal, defendant essentially argues that he timely delivered his paperwork to the prison mailroom but that the documents were delayed in arriving to the Clerk's Office.

But this Court has renounced the so-called "prison mailbox rule." *State ex rel. Tyler v. Alexander* (1990), 52 Ohio St.3d 84, 84-85, rejecting *Houston v. Lack* (1988), 487 U.S. 266. Accordingly, the State respectfully submits that defendant's request for a delayed appeal should be declined.

Respectfully submitted,

RON O'BRIEN 0017245  
Prosecuting Attorney



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**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing was sent by regular U.S. Mail, this day, August 24, 2009, to Timothy J. Howard, #569-390, Ross Correctional Institution, P.O. Box 7010, Chillicothe, Ohio 45601.



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**SETH L. GILBERT 0072929**  
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