

SUPREME COURT OF OHIO

DENNIS KING, ) ON APPEAL FROM THE COURT OF  
 Appellant, ) APPEALS EIGHTH JUDICIAL  
 -V- ) CUYAHOGA COUNTY:  
 ) CASE NO# 95492  
 PEOPLE FOR THE STATE OF OHIO, )  
 Appellee. )

12-0061

---

MOTION FOR DELAYED APPEAL  
 WITH A SUPPORTIVE AFFIDAVIT

---

DENNIS KING, #32331-160,  
(Appellant's Name/Prison ID;)

(USP) HAZELTON, P.O. BOX 2000,  
(Appellant's Place of Address)

Bruceton Mills, W.V. 26525.  
(City, State, Zip.)

CARL SULLIVAN, (Assistant P.A.)  
(Appellee's Name/Address,)

1200 Ontario Str., 8th Floor,  
Cleveland, Ohio 44113.

Respectfully Submitted,

(s) Dennis King,  
Appellant's Signature.

**FILED**  
 JAN 12 2012  
 CLERK OF COURT  
 SUPREME COURT OF OHIO

**SUPREME COURT OF OHIO**

DENNIS KING,	)	ON APPEAL FROM THE COURT OF
Appellant,	)	APPEALS EIGHTH JUDICIAL
-V-	)	CUYAHOGA COUNTY:
PEOPLE FOR THE STATE OF OHIO,	)	
Appellee.	)	CASE NO# 95492

---

**MOTION FOR DELAYED APPEAL  
WITH A SUPPORTIVE AFFIDAVIT**

---

**NOW COMES** Dennis King, Pro Se Appellant in this matter, through the assistance of another prisoner, hereby states that the following is true:

**1** The appellant is unable to hire private counsel to represent him on this matter, and the Public Defender's office does not want to represent him either because they claim the appellant plea guilty. The rich and famous are not the only people that deserve justice and have an effective appeal. Read attached hereto exhibit/appendix E1).

**2** The appellant has no idea how to file an appeal before this court, has no type of access to Ohio State Law based on that his incarcerated within a Federal Penitentiary that only stock Federal Law. A Notary is even hard to locate within the (USP) Hazelton. Read attached hereto exhibit/appendix E1).

**3** The appellant's appellate counsel informed him that his (45) days to appeal before this Court started on July 16, 2011. Then appellate counsel wrote on about July 10th, 2011, stating that counsel made an error on the date. Appellate counsel then stated that the (45) days to appeal before this Court started from on June 16, 2011, **[NOT]** July 16, 2011. Read attached hereto exhibit/appendix C2) and D1).

4¶ The appellant's appellate counsel stated and forwarded the Court of Appeals judgment/opinion on July 10, 2011. Which the Court of Appeals affirmed the lower Court's ruling, sentence and conviction on June 16, 2011. Read attached hereto exhibit/appendix B1).

5¶ The appellant in a very short notice filed a petition for writ of certiorari just to try and meet his deadline because appellant in believing that his 45-days started on July 16, 2011, which he was about to write the Ohio Supreme Court Clerk, for the Rules/Policies in filing an appeal before this Court. But the appellant was not given enough time to write this court's clerk due to appellate counsel's error/misleading. Read attached hereto exhibit/appendix C1). (Appellant mailed Certiorari before this Court on about July 26, 2011. So he mailed what he thought was correct in a timely manner.)

6¶ The appellant received two huge (2011) **Appeals Guide Books** from this clerk's office. **1) Filing an appeal in the Supreme Court of Ohio (A Pro-Se Guide);** and **2) Supreme Court of Ohio (Rules of Practice)**. Both Books are very very helpful, but the language is still very difficult to understand by the appellant is not an attorney, never study any type of Civil/Criminal law and will only be doing the best he can. The appellant has read both books several times to make sure he can understand the language more or less. But still ask this court to construe all his filings under **(Pro SE) filing in support of Federal/State Constitution/Law. (Liberal Interpretation)**. Read attached hereto exhibit/appendix C1).

7¶ Wherefore based on the foregoing facts/evidence, the appellant respectfully moves this most Honorable Court to **(GRANT)** him this **motion for delayed appeal with its supportive affidavit**.

AN ADDITIONAL ISSUE BASED ON ALL THESE DOCUMENTS

WERE RETURNED BY THE SUPREME COURT OF OHIO CLERK

81 The appellant once again filed his notice of appeal and motion for delayed appeal with a supportive affidavit, but it was all return to him by the clerk because for unknown reason that he still not sure why until the corrections are made. The appellant this time paid someone to type everything out and removed the staples out the original. This court's clerk must recognize that the appellant is not attorney, never study the Ohio law, and is presently serving a federal sentence that the federal prison does not stock any Ohio State Law. So his completely handicap, he just been able to communicate with the Public Defender's office of Ohio. The appellant is requesting that all his filings be construed (Pro-Se). Read all the attached documents that were return to him.

Respectfully Submitted,

Date: 01-03-12 ,

(s) Dennis King ,

Dennis King, Pro Se Status.  
(USP) Hazelton,  
P.O. Box 2000,  
Bruceton Mills, W.V.  
26525.

Read the last letter the appellant received from the Supreme Court of Ohio Clerk under exhibit/appendix F1) and G1).

The appellant mailed this court's letter/decision to The Public office, Mr. Stephen P. Hardwick, who has been guiding him what this court's clerk continues to say the filing is wrong. He just been able to finally communicate with counsel and make the corrections. This is the reason why he has filed his appeal late once again.

CERTIFICATE OF SERVICE

I, Dennis King, declares under oath that on the  
03, day of ~~JAN~~<sup>JAN</sup>, year ~~2011~~<sup>2012</sup>, he mailed a true copy  
of said: (MOTION FOR DELAYED APPEAL WITH ITS SUPPORTIVE AFFIDAVIT),  
to the name and address stated below:

Prosecutor's office,  
Carl Sullivan, (Assistant P.A.),  
1200 Ontario Str., 8th Floor,  
Cleveland, Ohio 44113.

I, Dennis King, declares under oath/penalty of perjury  
that the above statement is the truth.

Respectfully Submitted,

Date: 01-03-12,

(s) Dennis King,  
Dennis King, Pro- Se.  
#32331-160,  
(USP) Hazelton,  
P.O. Box 2000,  
Bruceton Mills, W.V.  
26525.

THE SUPREME COURT OF OHIO

AFFIDAVIT OF )  
DENNIS KING ) §§

-AFFIDAVIT-

I, Dennis King, declares under oath/penalty of perjury that the below statement is the truth:

The main reason that the appellant has filed his appeal before this court incorrectly and/or might be considered late because 1) appellate counsel errored/ mislead the affiant in thinking that his 45-days to file his appeal before this court started from July 16, 2011. Which the appellant explains this matter/situation within his attached motion for delayed appeal in sections 3 through-5.

Also 2) the appellant is incarcerated within a Federal Penitentiary that does not stock any state law, including Ohio State Law. Which the appellant has never study law, and has no money to hire private counsel. Therefore, he is completely handicapped.

REQUESTING PRO SE (LIBERAL INTERPRETATION) STATUS

The appellant further states herein that he signs this (AFFIDAVIT) under oath/penalty of perjury in support of every brief statement his stated within his attached hereto motion for delayed appeal in sections 1 through-7.

I, Dennis King, sign this (affidavit) under oath/penalty of perjury that everything stated above is the truth.



(s) Dennis King,  
(AFFIANT'S SIGNATURE)  
(Hard to find a Notary)

Sworn to Before me and Subscribed  
in my presence this 3rd day of  
November, year 2011.

(s) Melissa Wilson,  
(NOTARY'S SIGNATURE)

MY COMMISSION EXPIRES: June 28, 2020

JUN 16 2011

*Judge Burnside*

# Court of Appeals of Ohio

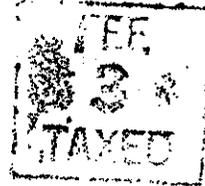
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**FILED**

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2011 JUN 20 P 1:58

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA



GERALD E. FUERST  
CLERK OF COURTS  
CUYAHOGA COUNTY

**JOURNAL ENTRY AND OPINION**  
**No. 95492**

**STATE OF OHIO**

**PLAINTIFF-APPELLEE**

vs.

**DENNIS KING**

**DEFENDANT-APPELLANT**

**JUDGMENT:**  
**AFFIRMED**

Criminal Appeal from the  
Cuyahoga County Court of Common Pleas  
Case No. CR-528585

**BEFORE:** Jones, J., Kilbane, A.J., and S. Gallagher, J.

**RELEASED AND JOURNALIZED:** June 16, 2011



VBLO 732 PBO 472



LARRY A. JONES, J.:

Defendant-appellant, Dennis King, appeals the trial court's judgment denying his motion to modify his sentence. We affirm.

I. Procedural History and Facts

In September 2009, a Cuyahoga County Grand Jury indicted King on four counts of failure to comply, two counts of aggravated vehicular assault, and two counts of failure to stop after an accident. The indictment was based on the following facts.

The Lakewood police stopped King in his vehicle. King subsequently fled the scene in the vehicle, and drove in excessive speed through a mixed commercial and residential area at dusk, running at least one red traffic light. The police pursued him, and during the course of the chase, King hit two vehicles. As a result, two people were injured and incurred medical treatment expenses. King fled his car and a chase ensued. The police apprehended him a short time later. The car chase lasted approximately one minute and spanned 16 city blocks.

After negotiations with the state, King pleaded guilty to Count One, failure to comply and Counts Five and Six, aggravated vehicular assault; the remaining counts were dismissed. After the trial court accepted King's plea, it immediately sentenced him to a nine-year prison term and imposed restitution

VAL 0732 PBO 474

for the victims. The court ordered the sentence to be served concurrently to a ten-year sentence imposed in a federal case arising from this same incident.<sup>1</sup>

The day following his plea and sentence, King filed a motion to modify the sentence. The court denied the motion without a hearing. King raises the following assignments of error for our review:

“[I.] The trial court abused its discretion by denying the motion to modify sentence without even conducting an oral hearing.

“[II.] The trial court erred as a matter of law by improperly inducing defendant-appellant to plead guilty after explaining how a yet then unannounced state prison sentence was actually more advantageous to defendant-appellant in the long run than the imposition of community control sanctions, thereby leading to pleas that were less than knowing, intelligent, and voluntary in derogation of Crim.R. 11.

“[III.] Defendant-appellant was denied the effective assistance of counsel as guaranteed by the Sixth Amendment to the United States Constitution and Section 10, Article I of the Ohio Constitution.”

## II. Law and Analysis

For ease of discussion, we consider King's assignments of error out of order.

### A. The Plea

Crim.R. 11(C)(2) provides that a court may not accept a guilty plea unless it addresses the defendant personally and (1) determines that he is making the

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<sup>1</sup>The federal charges related to contraband found in King's vehicle.

plea voluntarily, understanding the charges and the maximum penalty involved; (2) informs him of the effect of his guilty plea; and (3) informs him of the federal and state constitutional rights he will be waiving by entering a guilty plea. The rule creates two sets of requirements for a court to accept a guilty plea in a felony case. *State v. Higgs* (1997), 123 Ohio App.3d 400, 403, 704 N.E.2d 308. The first set is constitutional; the second set is nonconstitutional. *Id.* Strict compliance is required for the constitutional requirements. *Id.* While literal compliance is the preferred practice for the nonconstitutional requirements, a guilty plea is valid as long as the court substantially complies with these requirements. *State v. Nero* (1990), 56 Ohio St.3d 106, 108, 564 N.E.2d 474. In order to satisfy the requirement of substantial compliance, an appellate court must view the totality of the circumstances and determine whether the appellant has suffered prejudice. *Id.*

King does not challenge the trial court's advisement to him of the constitutional rights he waived, and our review shows that the court strictly complied with that advisement. Rather, King contends that the trial court led him to believe that his nine-year sentence in this case would not exceed his ten-year federal sentence. According to King's motion to modify his sentence, it is possible that he could serve more time under this sentence because the federal sentencing guidelines allow for "good behavior" reductions, meaning that he

could possibly serve eight, rather than ten, years of the federal sentence. We find no merit to King's contention for three reasons.

First, the record does not support King's contention that the trial court lured him into a plea with any promise. Rather, the court expressed that it wanted King's sentence in this case to run concurrently to his sentence in his federal case, but expressed concern as to whether it could legally do that. After researching the issue with counsel, the court concluded that it could sentence King to serve his time concurrently with his federal sentence.

The court *never* told King that his state court sentence would not exceed his federal court sentence. King contends that the trial court's "language" "indisputably" demonstrated that it "clearly intended for [him] to finish serving his state sentencing completely before the expiration of the federal term of incarceration[.]" King cites the following statement by the trial court in support of his contention: "Let's say I give [you] a four-year sentence, \* \* \* [o]nce you get [past] my sentence, then you are only serving the Federal sentence and they can do with you whatever they want to do."

The court's statement was true and does not demonstrate the intent King contends. In context, the court made the statement when reviewing with King a pro and con of a prison sentence versus the imposition of a community control sanction. Specifically, the court explained to King that if it sentenced him to a

community control sanction, he would not begin serving the sanction until he completed his federal sentence. The court further explained that if it sentenced him to a prison term concurrent with his federal sentence, although he would be serving the sentences at the same time, he may not be eligible for special programs available in the federal system because he would have a state detainer. After providing its explanation, the court asked King if he agreed that a concurrent prison sentence would be better for him than a community control sanction, and King agreed.

The Tenth Appellate District addressed this issue of concurrent state and federal sentences in *State ex rel. Gray v. Karnes*, Franklin App. No. 10AP-789, 2010-Ohio-5364. There, the defendant was sentenced in state court to a prison term to be served concurrently with a previously imposed federal sentence. Had the defendant served the entire federal sentence it would have extended beyond the sentence imposed in his state court case. But the defendant was released early from his federal prison sentence and filed a writ of habeas corpus, contending that because his state sentence was to be served concurrently with his federal sentence, the state sentence necessarily expired at the same time he was released on his federal case.

The trial court and the Tenth District relied on the Second Appellate District's decision in *State v. Bellamy*, 181 Ohio App.3d 210, 2009-Ohio-888, 908

N.E.2d 522, in rejecting the defendant's claim. In *Bellamy*, the court held that "the imposition of a concurrent sentence normally means that the sentence being imposed is to run concurrently with the *undischarged* portion of the previously imposed sentence." (Emphasis sic.) Id. at ¶12, quoting *Bianco v. Minor* (June 6, 2003), M.D.Pa. No. Civ.A. 303CV0913. The Second District contrasted a concurrent sentence with a consecutive sentence, where the second sentence cannot begin to be served until the first sentence has been completed. *Bellamy* at id., citing *Richards v. Eberlin*, Belmont App. No. 04-BE-1, 2004-Ohio-2636.

In light of the above, the Tenth District found as follows: "[t]he fact that sentences run concurrently merely means that the prisoner is given the privilege of serving each day a portion of each sentence. However, if the sentences which are to run concurrently are of different lengths, the prisoner cannot be discharged until he has served the longest sentence." *Gray* at ¶6, quoting *Brinklow v. Riveland* (Colo. 1989), 773 P.2d 517.

Here, there was no explicit promise made to King that his state court sentence would not exceed his federal court sentence. Further, there was no implied promise made to King, and as set forth in *Gray*, a shortened federal sentence does not operate to reduce a state court sentence when the two sentences were ordered to be served concurrently. Accordingly, King's plea was

not based on the promise of a shorter state court sentence.

The second reason we find King's contention that his plea was not knowing, voluntary, and intelligent to be without merit is because generally, in order for a plea to be knowing, voluntary, and intelligent, a defendant must only be made aware of the *direct consequences* of the plea. *State v. Harris*, Erie App. No. E-06-015, 2007-Ohio-6362, ¶20. That is, a trial court is not required to inform the defendant of all possible collateral consequences. *Id.* Thus, the trial court was not required to inform King that he *may* get a "good behavior" reduction in his federal case, that *may* result in him serving more time on the state case than the federal case.

The final reason that we find King's contention that his plea was not knowing, voluntary, and intelligent without merit is because he has failed to demonstrate prejudice. The test for prejudice is whether the plea would have otherwise been made. *State v. Veney*, 120 Ohio St.3d 176, 2008-Ohio-5200, 897 N.E.2d 621, ¶17. Neither before this court nor the trial court has King contended that he would not have entered his plea had he known and understood that he could serve more time on this case than the federal case. Rather, at the conclusion of the sentencing hearing, the trial court asked King if he had questions and King responded, "I'm getting nine years? You say nine years in all, right?" The court told King he was correct, and he said "[o]kay. I

understand.”

On this record, King’s plea was knowing, voluntary, and intelligent. The trial court was not obligated to inform him of the possibility that he may serve more time on this case than on his federal case. Further, by operation of law, the concurrent time will expire when the longest sentence is served. Moreover, King understood that he was being sentenced to nine years on this case, and he has not demonstrated that he was prejudiced.

Accordingly, the second assignment of error is overruled.

#### B. Motion to Modify Sentence

In his first assignment of error, King contends that the trial court abused its discretion by denying his motion to modify his sentence without at least conducting a hearing. We disagree.

The motion to modify was based on King’s contention that the trial court “did not take into consideration the concept of good behavior reduction in relation to a federal penal sentence.” In addition to not being required to inform King about the collateral consequences of his plea, the trial court was not required to consider the federal case in sentencing King in state court. Specifically, “states are separate sovereigns with respect to the federal government.” *State v. McKinney* (1992), 80 Ohio App.3d 470, 474, 609 N.E.2d 613. Moreover, the basis of King’s motion to modify the sentence was

speculative, that is, the federal court *may* grant him a "good behavior" reduction.

In light of the above, the first assignment of error is overruled.

C. Ineffective Assistance of Counsel

In his third assignment of error, King contends that his trial counsel was ineffective because he failed to (1) raise the possibility of "good behavior" reduction in his federal case at the sentencing hearing, and (2) file a Crim.R. 32.1 motion to withdraw the plea.

A guilty plea waives a defendant's claim of ineffective assistance of counsel except to the extent that the alleged ineffectiveness may have caused the guilty plea to be less than knowing, intelligent, and voluntary. *State v. Barnett* (1991), 73 Ohio App.3d 244, 249, 596 N.E.2d 1101; *State v. Smith*, Cuyahoga App. No. 85616, 2005-Ohio-4702, at ¶14. As discussed above, King was not induced into his plea by the promise that his state court sentence would not exceed his federal court sentence, and his plea was knowing, intelligent, and voluntary. His ineffective assistance of counsel claim is, therefore, waived.

Nonetheless, we find no merit to the claim. "To substantiate a claim of ineffective assistance of counsel, a defendant must demonstrate that (1) the performance of defense counsel was seriously flawed and deficient, and (2) the result of defendant's trial or legal proceeding would have been different had defense counsel provided proper representation." *Strickland v. Washington*

(1984), 466 U.S. 668, 687, 694, 104 S.Ct. 2052, 80 L.Ed.2d 674.

For the reasons already discussed, the possibility of a "good behavior" reduction in King's federal case was not for the trial court's consideration. Accordingly, King's trial counsel was not ineffective for not raising it at sentencing or not filing a motion to withdraw King's plea. The third assignment of error is therefore overruled.

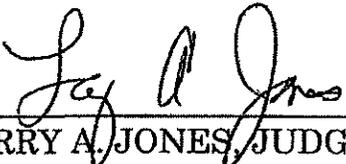
Judgment affirmed.

It is ordered that appellee recover of appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution. The defendant's conviction having been affirmed, any bail pending appeal is terminated. Case remanded to the trial court for execution of sentence.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

  
\_\_\_\_\_  
LARRY A. JONES, JUDGE

MARY EILEEN KILBANE, A.J., and  
SEAN C. GALLAGHER, J., CONCUR

VOL 0732 PG 0483



Office of the Ohio Public Defender  
250 East Broad Street - Suite 1400  
Columbus, Ohio 43215

[www.opd.ohio.gov](http://www.opd.ohio.gov)

(614) 466-5394  
Fax (614) 752-5167

TIMOTHY YOUNG  
State Public Defender

October 18, 2011

Dennis King  
#32331160  
USP-Hazelton  
PO Box 2000  
Bruceton Mills, WV 26525

Re: Your request for assistance

Dear Mr. King:

I see at least two problems with your most recent filing. First, you need to attach a copy of the file-stamped opinion. A copy printed from a computer database is not sufficient, but I have obtained a copy for you and it is enclosed. Also, you need an affidavit of indigency. I sent you a pro se packet, and it included an indigency affidavit, but I enclose another one with this letter. It also appears that the clerk is enforcing the rule about typing the motion, so you have to submit a typed copy. Finally, be sure not to argue why you should win the appeal. Argue only why you should be allowed to file late.

I have kept a copy of the materials you sent me. I have enclosed the originals with this letter.

Good luck with your appeal.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen P. Hardwick". The signature is fluid and cursive, with a long horizontal stroke at the end.

Stephen P. Hardwick  
Assistant Public Defender

SPH/rmt  
Encls.  
#354593

9-30-11

Dear clerk,

I have resubmitted the enclosed documents for the second time, and I have communicated with the Public Defender's Office, in hopes of receiving some help because I am not an attorney, never study the law, and I am incarcerated within a Federal Penitentiary that does not stock any state law, including State Law for the State of Ohio. I am completely handicapped.

I have read the Pro Se Supreme Court of Ohio (GUIDE) you mailed me, but it seems that the language is still difficult to understand. I am doing the best as possible.

But the rich & famous should not be the only people that should have their appeals heard and or filed, or those people that can afford private counsel.

I want to appeal my denial of my criminal appeal, which is a felony. (thank you for taking the time to read this letter).

Sincerely,

(s) Dennis King,  
DENNIS KING, PRO SE.

July 26, 2011

Dear Clerk,

I have filed before this court a petition on the issues concerning the denial of my appeal before the Court of Appeals of Ohio. My attorney informed me that my conviction, sentence was affirmed by the above court like about a week left into my deadline to file my petition before this court.

So I had to rush it just to meet my 45-days deadline. I was not able to find a working stapler at the prison I am being housed. Can you please staple my petition together for me, and file it.

Had my attorney given me more time, I would had wrote you & requested the proper forms, rules etc.; But my attorney left me with no other choice then to rush my petition, just to meet my deadline.

Please inform me when you receive my enclosed petition.

Thank you very much!

Sincerely,

(s) Dennis King,  
Dennis King, Pro Se,  
# 32331-160,  
(USP) Hazelton, P.O. Box 2000,  
Bruceeton Mills, W.V. 26525.

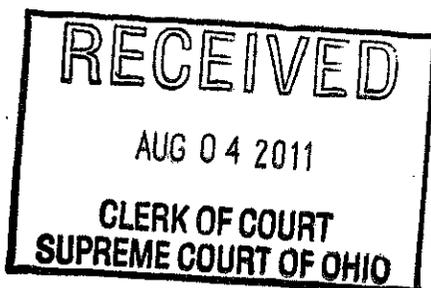


Exhibit # C1)  
1-08-2

# The Supreme Court of Ohio

OFFICE OF THE CLERK

65 SOUTH FRONT STREET, COLUMBUS, OH 43215-3431

CHIEF JUSTICE  
MAUREEN O'CONNOR

CLERK OF THE COURT  
KRISTINA D. FROST

JUSTICES  
PAUL E. PFEIFER  
EVELYN LUNDBERG STRATTON  
TERRENCE O'DONNELL  
JUDITH ANN LANZINGER  
ROBERT R. CUPP  
YVETTE MCGEE BROWN

TELEPHONE 614.387.9530  
FACSIMILE 614.387.9539  
[www.supremecourt.ohio.gov](http://www.supremecourt.ohio.gov)

September 7, 2011

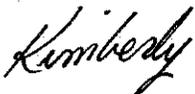
Dennis King #32331-160  
(USP) Hazelton  
P.O. Box 2000  
Bruce Mills, WV 26525

Dear Mr. King:

I am returning the enclosed notice of appeal, motion for delayed appeal, and affidavit of indigency because it does not comply with the Rules of Practice of the Supreme Court of Ohio. ~~Specifically, the electronically generated copy of the court of appeals decision does not meet the requirements of Rule 8.4(A)(3) and (B). Rule 8.4(A)(3) states the text of all documents shall be at least 12-point, non-condensed type, either Times New Roman type or another type that has no more than eighty characters to a line of text. Under Rule 8.4(B) you may submit a photo copy of the court of appeals decision issued directly by the court or agency.~~

If you correct your court of appeals decision, may resubmit your notice of appeal, motion for delayed appeal with a photocopy of the court of appeals decision in compliance with Rule 8.4(A)(3) or (B) attached to it, and your affidavit of indigency.

Sincerely,



Kimberly  
Deputy Clerk

Enclosures

# Supreme Court of Ohio

Dennis King,  
Appellant,

-v-

People For The State of Ohio  
Appellee.

on Appeal from the  
Court of Appeals 8th  
Judicial Cuyahoga County

Case No# 95492

---

## Motion For Delayed Appeal With A Supportive Affidavit

---

Dennis King, # 32331-160  
(USP) Hazelton, P.O. Box 2000,  
Broceton Mills, W.V. 26525  
Appellant:

Appellee:

Carl Sullivan, (Assistant P.A.)  
1200 Ontario Str., 8th Floor,  
Cleveland, Ohio 44113.

Respectfully Submitted,

(s) Dennis King Pro se status:  
Appellant's Signature.

# Supreme Court of Ohio

Dennis King,  
Appellant,

-v-

People For The State of Ohio,  
Appellee.

On Appeal From The Court  
of Appeals 8th Judicial  
~~Cuyahoga~~ Cuyahoga County

Supreme Court No# \_\_\_\_\_

Case No# 95492

Certificate of Service Page (3):

## Motion For Delayed Appeal with A Supportive Affidavit

Now Comes Dennis King, Pro se Appellant in this matter, through the assistance of another Prisoner, hereby states that the following is true:

1# The appellant is unable to hire Private Counsel to represent him on this matter based on the fact that he cannot afford Counsel's fee. But the rich should not be the only people that have a right to effectively appeal their case. Read attached hereto Exhibit # E1).

2# The appellant has no idea how to file an appeal before this Court, has no type of access to Ohio State Law based that his incarcerated within a Federal Penitentiary that only stock Federal law. A Notary is hard to locate within (VSP) Hazelton. Read attached hereto Exhibit # E1)

3# The appellant's appellate Counsel informed him that his 45-days to appeal before this Court started on July 16, 2011. Then appellate Counsel wrote on about July 10, 2011 stating that Counsel

Made an error on the date. Appellate Counsel then stated that the 45-days to appeal before this court started on June 16, 2011, [not] July 16, 2011. Read attached hereto exhibit# C2) and D1)

4# The appellant's appellate Counsel stated and forwarded the Court of Appeals judgment/opinion on July 10, 2011. which the court of Appeals affirmed the lower Court's ruling, sentence and conviction on June 16, 2011. Read attached hereto exhibit# B1).

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6# The appellant received two huge (2011) Appeals Guide Books from this clerk's office. 1) Filing an Appeal in the supreme court of Ohio (A Pro se Guide); and 2) Supreme Court of Ohio (Rules of Practice). Both Books are very very helpful, but the language is still very difficult to understand by the appellant is not an attorney, never study any type of Civil/Criminal law and will only be doing the best he can. The appellant has read both books several times to make sure he can understand the language more a less. But still ask this court to construe all his filings under Pro se filing in support of Federal/state constitution/Law. (~~liberal~~ Liberal Interpretation). Read attached hereto exhibit# C1).

7& wherefore, based on the a foregoing facts/evidence, the appellant respectfully moves this most Honorable Court to (GRANT) him this motion For Delayed Appeal with its Supportive Affidavit.

Respectfully Submitted,

Date: 8-26-11,  
(s) Dennis King  
Dennis King, Pro Se Status.  
(USP) Hazelton, P.O. Box 2000,  
Brunton Mills, W.V. 26525

Certificate of Service

I, Dennis King, declares under oath that on the 26, day of August, year 2011, he mailed a true copy of said; Motion For Delayed Appeal with A Supportive Affidavit, to the name and address stated below:

Carl Sullivan, (Assistant P.A.)  
1700 Ontario Str., 8th Floor,  
Cleveland, Ohio 44113.

I, Dennis King, declares under oath/penalty of Perjury that the above statement is the truth.

Date: 8-26-2011,

Respectfully Submitted,  
(s) Dennis King  
Dennis King, Pro Se.

Affidavit of )  
Dennis King )<sup>§</sup>

- Affidavit -

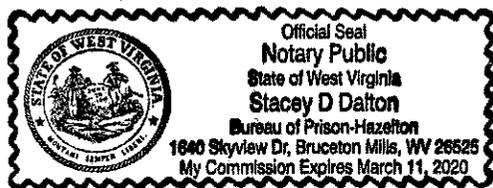
I, Dennis King, declares under oath/Penalty of Perjury that the below statement is the truth.

The main reason that the appellant has filed his appeal before this court incorrectly and/or might be considered late because appellate counsel erred/mistake the affiant in thinking that his 45-days to file his appeal before this court started from July 16, 2011. which the appellant explains this matter/situation within his attached motion for Delayed Appeal in sections 3<sup>rd</sup> - through - 5<sup>th</sup>.

The appellant further states herein that he signs this (Affidavit) under oath/penalty of Perjury in support of every brief statement he stated within his attached hereto motion for Delayed Appeal in sections 1<sup>st</sup> - through - 7<sup>th</sup>.

I, Dennis King, sign this (Affidavit) under oath/Penalty of Perjury that everything stated above is the truth.

(s) Dennis King  
(Pro Se Filer/Affiant's Signature)



Sworn to Before me and subscribed  
in my presence this 25 day of  
August, year 2011.

(s) [Signature]  
Notary's Signature,

My Commission Expires: 3.11.20,