

IN THE SUPREME COURT OF OHIO

12-0273

STATE OF OHIO,

Plaintiff-Appellee,

vs.

Shawn Nooks

Defendant-Appellant.

Case No. 09-CR-578

On Appeal from the Montgomery
County Court of Appeals
Second Appellate District

C.A. Case No. 23591

MOTION FOR LEAVE TO FILE DELAYED APPEAL OF
APPELLANT Shawn Nooks

Shawn Nooks 608-481
NAME AND NUMBER

WCI
INSTITUTION

Po Box 120
ADDRESS

Lebanon, Ohio 45036
CITY, STATE & ZIP

PHONE

DEFENDANT-APPELLANT, PRO SE

Carley Ingram
PROSECUTOR NAME

301 W. Third St, 5th Floor
ADDRESS

Daxton, Ohio, 45422
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PHONE

COUNSEL FOR APPELLEE, STATE OF OHIO

FILED
FEB 13 2012
CLERK OF COURT
SUPREME COURT OF OHIO

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STATE OF OHIO,

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MOTION FOR LEAVE TO FILE DELAYED APPEAL OF
APPELLANT Shawn Nooks

Shawn Nooks respectfully moves this Court for leave to file a delayed appeal.

S.Ct.Prac.Rule 2.2(A)(4)(a). On Oct 21, 2011 the appellate court's opinion was rendered. Unfortunately, I was not able to file a timely appeal do to the fact that I just can't get into the law ~~librar~~ library when I want to. I have to follow the rules of WCI, I only get to go on certain days, and I have to sign up and wait for a pass and that can take up to 2 or 3 weeks before I recieve a pass, and sometimes it don't take that long. But you never know ~~wh~~ when you will recieve a pass ~~of~~ for law library. And ~~a~~ finally I have to put in a pass to see a Notary and they only do it on thursday, and thats when I do recieve a pass. ~~E~~ Even when getting copies I have to wait for that to. I can't do nothing on my own with out a pass first.

Appellant could not file for an extension of time
under Supreme court rules so my only remedy is a
delayed

An affidavit supporting the Appellant's allegations is attached hereto. Because the Appellant did not unduly delay the filing of this appeal, this Court should permit the Appellant to file a delayed appeal.

Respectfully submitted,

SIGNATURE

B. Shawn Nooks

NAME AND NUMBER

WCF

INSTITUTION

PO, BOX 120

ADDRESS

Lebanon, OH 45036

CITY, STATE & ZIP

DEFENDANT-APPELLANT, **PRO SE**

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion For Leave to File Delayed Appeal was forwarded by regular U.S. Mail to Carley Ingram, Prosecuting Attorney
301 W. Third St 5th Floor Dayton, Ohio, 45422 on

SIGNATURE

Shawn Mooks 608-481

NAME AND NUMBER

DEFENDANT-APPELLANT, **PRO SE**

AFFIDAVIT

State of Ohio)
) ss:
County of Montgomery)

I, Shawn Nooks, swear that the following is true:

1. That I could not file my memorandum in jurisdiction, due to the running of the ~~is~~ institution.
2. That I have to wait for a pass to go to the law library, and I have to wait for a pass to get a notary. That I have to follow the rules of WCF
3. These are the reasons I have not filed a ~~is~~ timely appeal

Shawn Nooks ji 1008-487
NAME AND NUMBER

DEFENDANT-APPELLANT, PRO SE

Sworn to and subscribed in my presence this 9TH day of DECEMBER

20 11

David C. Lombardi
NOTARY PUBLIC

EXPIRES: July 26, 2014

(copy this)

Federal Court due
January 2012



10:34
10:34

IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
MONTGOMERY COUNTY

STATE OF OHIO

Appellate Case No. 23591

Plaintiff-Appellee

Trial Court Case No. 09-CR-578

v.

SHAWN NOOKS

Defendant-Appellant

DECISION AND ENTRY

October 21, 2011

PER CURIAM:

This matter is before the court on Shawn Nooks' "Motion to Vacate Order and Opinion for Lack of Subject Matter Jurisdiction." Nooks moves this Court to vacate its October 15, 2010 Opinion and Final Entry, arguing that the judgment of conviction from which the appeal had arisen was not a final appealable order pursuant to Crim.R. 32(C) and *State v. Baker*, 119 Ohio St.3d 197, 2008-Ohio-3330. Specifically, Nooks asserts that his July 20, 2009 judgment of conviction failed to set forth the manner of his conviction.

The Supreme Court of Ohio has recently modified *Baker* and held that "[a] judgment of conviction is a final order subject to appeal under R.C. 2505.02 when it sets forth (1) *the fact of the conviction*, (2) the sentence, (3) the judge's signature, and (4) the time stamp indicating the entry upon the journal by the clerk." (Emphasis added.) *State v. Lester*, Slip

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FEB 13 2012

CLERK OF COURT
SUPREME COURT OF OHIO

THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT

Opinion No.2011-Ohio-5204, paragraph one of the syllabus. A trial court's omission of how a defendant's conviction was effected, i.e., "the manner of conviction," does not prevent the judgment of conviction from being a final appealable order. *Id.* at ¶12.

Nooks' July 20, 2009 judgment of conviction complies with the requirements set forth in *Lester*, and, therefore, constituted a final appealable order. Insofar as Nooks seeks an entry designating the manner of his conviction, the supreme court has provided that his avenue of relief is a motion filed with the trial court to correct the judgment of conviction. *Id.* at ¶16.

Pursuant to *Lester*, Nooks' "Motion to Vacate Order and Opinion for Lack of Subject Matter Jurisdiction" is OVERRULED.

SO ORDERED.


MARY E. DONOVAN, Judge


JEFFREY E. FROELICH, Judge

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CA3/JN