

IN THE SUPREME COURT OF OHIO

12-1055

STATE OF OHIO,

Plaintiff-Appellee,

vs.

Shawn Alexander

Defendant-Appellant,

On Appeal from the Franklin
County Court
of Appeals, 10th
Appellate District

Court of Appeals
Case No. 11 AP-752
(C.P.C. No. 04 CR-05-30e1)

MOTION TO FILE DELAYED APPEAL

Shawn Alexander respectfully moves the Court pursuant to Ohio Supreme Court Rule II, Section 2(A)(4)(a) for leave to file a delayed appeal and a notice of appeals. This case involves a felony and more than 45 days has passed since the Court of Appeals decision was filed in this case. A memorandum in support is attached.

[Signature]
SIGNATURE

Shawn Alexander 487-776
NAME AND NUMBER
Ross Correctional Institution
P.O. Box 7010
Chillicothe, Ohio 45601
ADDRESS

FILED
JUN 19 2012
CLERK OF COURT
SUPREME COURT OF OHIO

DEFENDANT-APPELLANT, PRO SE

RECEIVED
MAY 23 2012
CLERK OF COURT
SUPREME COURT OF OHIO

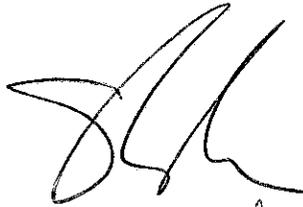
MEMORANDUM AND AFFIDAVIT IN SUPPORT OF MOTION

On March 15, 2012 the Court of Appeals filed its decision in my case. I have attached a copy of the Court of Appeals opinion to this motion. I was unable to file a notice of appeal, memorandum in support of jurisdiction within 45 days of the Court of Appeal decision in my case.

I was unable to file an appeal to this Court within 45 days of the Court of Appeal decision for the following reasons.

Petitioner was impeded in filing a timely appeal by the state of Ohio as access to the law library and copy services was extremely limited from April 25, 2012 to May 15, 2012 due to the absence of the Institutional Librarian for personal reasons and also limited access to copies.

Janet E. Spearry
June 7, 2012
Notary


Shawn Alexander



Janet E. Spearry
Notary Public - Ohio
My Commission Expires 8-25-2013

CONCLUSION

This Court should grant me leave to file a delayed appeal, based on the above mentioned foregoing facts.

Respectfully Submitted,



Signature

SHAWN ALEXANDER 487-776
Name and Number

R.C.T.
Institution

P.O. Box 7010
Address

Chillicothe, Ohio 45601
City, State & Zip

DEFENDANT-APPELLANT, PRO SE

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for Delayed Appeal was forwarded by regular U.S. Mail to Franklin County, Prosecuting Attorney RON O'BRIEN, _____, this 17th day of May, 2002.



Signature

SHAWN ALEXANDER 487-776
Name and Number

DEFENDANT-APPELLANT, PRO SE

FILED
COURT OF APPEALS
FRANKLIN COUNTY, OHIO

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

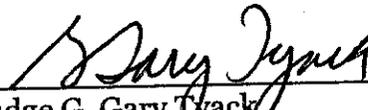
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CLERK OF COURTS

State of Ohio, :
 :
 Plaintiff-Appellee, :
 :
 v. : No. 11AP-752
 : (C.P.C. No. 04CR-05-3061)
 Shawn Alexander, :
 : (REGULAR CALENDAR)
 Defendant-Appellant. :

JUDGMENT ENTRY

For the reasons stated in the decision of this court rendered herein on March 15, 2012, appellant's assignments of error are overruled. Therefore, it is the judgment and order of this court that the judgment of the Franklin County Court of Common Pleas is affirmed. Costs shall be assessed against appellant.

TYACK, KLATT & SADLER, JJ.

By 
Judge G. Gary Tyack

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

FILE
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2012 MAR 15 PM
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State of Ohio, :
 :
 Plaintiff-Appellee, :
 :
 v. : No. 11AP-752
 : (C.P.C. No. 04CR-05-3061)
 Shawn Alexander, :
 : (REGULAR CALENDAR)
 Defendant-Appellant. :

D E C I S I O N

Rendered on March 15, 2012

Ron O'Brien, Prosecuting Attorney, and *Steven L. Taylor*, for
appellee.

Shawn Alexander, pro se.

APPEAL from the Franklin County Court of Common Pleas

TYACK, J.

{¶1} Shawn Alexander is appealing from the trial court's denial of his second motion requesting new sentencing proceedings. He assigns two errors for our consideration:

First Assignment of Error

The trial court erred when it allowed a void sentence to stand contrary to Ohio statutes and Ohio Supreme Court rulings violating Defendant's 6th and 14th Amendments to the U.S. Constitution as well as article I section 16 of the Ohio Constitution.

Second Assignment of Error

The trial court erred when it prematurely denied Defendant's motion for a de novo review before the court received and time stamped his timely reply to the prosecutions brief.

{¶2} Alexander entered a series of guilty pleas to felonies resulting in his being sentenced to 22 years of incarceration. His first appeal resulted in a remand to the trial court for it to address issues resulting from the Supreme Court of Ohio's decision in *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856.

{¶3} At a second sentencing hearing, the trial court again sentenced Alexander to 22 years of incarceration. At the sentencing hearing, Alexander was informed that he would be subject to a term of post-release control and that the period of post-release control would be as much as 5 years.

{¶4} Alexander appealed from the second sentencing proceeding and this court affirmed the judgment of the trial court in 2006.

{¶5} Almost three years later, Alexander sought to have his sentence declared void because the trial court told him his period of post-release control was as much as five years instead of exactly five years. The trial court overruled his motion and a panel of this court affirmed.

{¶6} Alexander attempted to litigate the exact same issue by filing a new motion for a de novo sentencing hearing. The trial court, realizing that this issue had already been addressed, summarily overruled the new motion.

{¶7} Nothing Alexander could file or did file in his reply in the context of his second motion could change the past history of this case. He has asked the courts to give him yet another sentencing hearing and the courts have said "no." The second assignment of error is overruled.

{¶8} The first assignment of error asserts that the sentence Alexander received for sexually abusing a small child is void. That assertion is wrong for a number of reasons.

{¶9} First and foremost, the courts have said it is wrong.

{¶10} Second, there is no guarantee that Alexander could conduct himself in accord with the law for five years if or when he is released from prison. If he violated post-release control, he would be returned to prison and his post-release control would end short of five years.

{¶11} The first assignment of error is overruled.

{¶12} Both assignments of error having been overruled, the judgment of the Franklin County Court of Common Pleas is affirmed.

Judgment affirmed.

KLATT and SADLER, JJ., concur.
