

IN THE SUPREME COURT OF OHIO 12-0963

RONALD L. NELSON
Appellant

**On Appeal from the Medina
County Court of Appeals, Ninth
Appellate District**

vs.

**Court of Appeals
Case No. 10 CA 0115-M**

PATRICIA D. NELSON
Appellee

**MOTION TO DISMISS OF
APPELLEE PATRICIA D. NELSON**

Now comes Appellee Patricia D. Nelson, by and through counsel, and hereby respectfully moves this Court for an order dismissing the Appeal filed by Appellant Ronald L. Nelson on June 6, 2012.

As a basis for this Motion, pursuant to Supreme Court Practice Rule 2.2A1a “the Appellant shall file a Notice of Appeal in the Supreme Court within forty-five (45) days from the Entry of the Judgment being appealed”. Additionally, pursuant to Supreme Court Practice Rule 2.2 A5a “when a party commonly files an application for reconsideration in the Court of Appeals, pursuant to Appellate Rule 26 A1, the time for filing a Notice of Appeal from the Court of Appeals Entry of Judgment shall be tolled.”

In this matter, the Ninth District Court of Appeals issued their decision on December 5, 2011. On December 14, 2011, Appellant applied for reconsideration of the Court’s December 5, 2011 decision. Appellant’s application for reconsideration of the Court’s decision was denied in the Court of Appeals Journal Entry dated April 25, 2012. Appellant’s appeal to this Court was filed on June 6, 2012.

RECEIVED
JUN 22 2012
CLERK OF COURT
SUPREME COURT OF OHIO

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SUPREME COURT OF OHIO

When calculating time in which Appellant had to file his Notice of Appeal in this matter, in taking into consideration the time that was tolled, Appellant's filing of this Appeal in not timely and should therefore be dismissed.

WHEREFORE, based on the foregoing, Appellee respectfully requests an order from this Court dismissing Appellant's Appeal in this matter for failure to timely file.

Respectfully submitted,

The Bailey Law Firm



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CERTIFICATE OF SERVICE

A copy of the foregoing was served this 20th day of June, 2012 upon David H. Ferguson, Attorney for Appellant, 57 South Broadway Street, Third Floor, Akron, OH 44308 by regular U.S. Mail.



Steve C. Bailey
Attorney for Appellee