

IN THE SUPREME COURT OF OHIO

13-0948

STATE OF OHIO,  
Plaintiff-Appellee,

CASE NO. \_\_\_\_\_  
On Appeal from the Cuyahoga  
Court of Appeals, Eighth,  
Appellate District

vs.

C.A. No. 99155

ARNOLD PAIGE  
Defendant-Appellant.

MOTION FOR LEAVE TO FILE DELAYED APPEAL OF  
DEFENDANT-APPELLANT ARNOLD PAIGE

Arnold Paige #463249  
Lake Erie Correctional Institution  
P.O. Box 8000  
Conneaut, OH 44030-8000

DEFENDANT-APPELLANT, *PRO SE*

Timothy J. McGinty, County Prosecutor  
The Justice Center, 9<sup>th</sup> Floor,  
1200 Ontario Street,  
Cleveland, Ohio 44113,

COUNSEL FOR APPELLEE: STATE OF OHIO

RECEIVED  
MAY 02 2013  
CLERK OF COURT  
SUPREME COURT OF OHIO

RECEIVED  
JUN 12 2013  
CLERK OF COURT  
SUPREME COURT OF OHIO

FILED  
JUN 12 2013  
CLERK OF COURT  
SUPREME COURT OF OHIO

IN THE SUPREME COURT OF OHIO

STATE OF OHIO,

Plaintiff-Appellee,

vs.

ARNOLD PAIGE

Defendant-Appellant.

CASE NO. \_\_\_\_\_

On Appeal from the Cuyahoga  
Court of Appeals, Eighth,  
Appellate District

C.A. No. 99155

**MOTION FOR LEAVE TO FILE DELAYED APPEAL OF  
DEFENDANT-APPELLANT ARNOLD PAIGE**

Now comes the Defendant-Appellant, Arnold Paige acting *pro se*, and respectfully moves the Court pursuant to Rule 2.2(A)(4)(a) to grant leave to file a delayed appeal and a notice of appeal. This case involves a felony and more than 45 days has passed since the decision of the Court of Appeals was filed in this case. A memorandum is attached.

Respectfully submitted



Arnold Paige #463249  
Defendant-Appellant, *pro se*  
Lake Erie Correctional Institution  
P.O. Box 8000  
Conneaut, OH 44030-8000

## MEMORANDUM

On the 26 day of February 2013 the Eighth, District Court of Appeals filed its Decision and Journal Entry in the above-styled case. A copy of the Court of Appeals Decision and Journal Entry is attached to this motion.

Appellant was unable to file a notice of appeal and memorandum in support of jurisdiction within 45 days of the Court of Appeals Decision and Journal Entry, and now states the reasons for his delay.

Appellant lacked the skills or knowledge to adequately pursue Appellant's rights without the assistance of counsel. Counsel was essential to ensure that Appellant's rights were fully litigated and all issues presented. Appellant relied on counsel to protect Appellant's constitutional rights. As attested by the record Appellate was/is indigent and was/is without the sufficient funds to hire an attorney. After the Court of appeals confirmed the lowers Court decision, Appellant contacted his Appellant counsel for assistance with his appeal to this Court. Appellant's counsel subsequently advised appellant that he would ask the Court to appoint him for representation at this Court. Appellant never received notice from his counsel informing him that the Court [denied] counsel's motion for representation and believed that counsel had been appointed and filed the notice of appeal and memorandum in support of jurisdiction. After not hearing from counsel or this Court, Appellant made several attempts to contact his counsel but received no response and subsequently contact the Ohio Public Defender Office and was informed that a notice of appeal and memorandum in support had not been filed

Appellant lack of skills or knowledge to adequately pursue his Appeals rights without the assistance of counsel was left with no choice but to attempted to pursue his appeal with the help of the Institutional legal aid clerk in order to meet the 45 day deadline. Appellant completed the notice of appeal and memorandum in support of jurisdiction but again due to his lack of knowledge and Institutional legal aid assistance Appellant and the aid fell to put the date of the judgment entry being appeal in the notice of appeal.

This court returned the petition with a cover letter informing him that the date of the judgment entered is not correct for the filing of the appeal. Appellant return the petition for that reason with the correct judgment entry date and month in the notice of appeal on the 9<sup>th</sup> of April. The clerk returned the petition with a cover letter informing Appellant that the petition was not timely filed. Appellant's petition was due April 12, 2013 the clerk received the petition on April 15, 2013. For this reason Appellant request this Court to grant leave to file a delayed appeal, Defendant would present the following propositions of law for review:

**PROPOSITION OF LAW NO. I**

“Whether appellant's motion for leave to reinstate appeal is timely”, where the clerk failed to transmit the record, which resulted in a dismissal of notice of appeal.

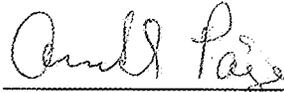
**PROPOSITION OF LAW NO. II**

“Whether Appellant's Application for Reconsideration is timely pursuant to App. R. 26(A)(1)(a)”.

**CONCLUSION**

Based on the foregoing argument and authorities, Defendant-Appellant prays the Court grant leave to file a delayed appeal and notice of appeal.

Respectfully submitted,



---

Arnold Paige #463249  
Defendant-Appellant, *pro se*  
Lake Erie Correctional Institution  
P.O. Box 8000  
Conneaut, OH 44030-8000

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing *Motion For Leave To File Delayed Appeal* has been sent by U.S. Mail, first-class postage prepaid, to Timothy J. McGinty Cuyahoga County Prosecutor, The Justice Center, 9<sup>th</sup> Floor, 1200 Ontario Street, Cleveland, Ohio 44113, on this 25<sup>th</sup>, day of April, 2013.



---

Arnold Paige #463249  
Defendant-Appellant, *pro se*

IN THE SUPREME COURT OF OHIO

STATE OF OHIO,

Plaintiff-Appellee,

vs.

ARNOLD PAIGE

Defendant-Appellant.

CASE NO. \_\_\_\_\_

On Appeal from the Cuyahoga  
Court of Appeals, Eighth,  
Appellate District

C.A. No. 99155

---

**AFFIDAVIT IN SUPPORT OF MOTION FOR LEAVE TO FILE DELAYED APPEAL  
OF DEFENDANT-APPELLANT ARNOLD PAIGE**

---

Arnold Paige #463249  
Lake Erie Correctional Institution  
P.O. Box 8000  
Conneaut, OH 44030-8000

DEFENDANT-APPELLANT, *PRO SE*

Timothy J. McGinty, County Prosecutor  
The Justice Center, 9<sup>th</sup> Floor,  
1200 Ontario Street,  
Cleveland, Ohio 44113,

COUNSEL FOR APPELLEE: STATE OF OHIO

IN THE SUPREME COURT OF OHIO

STATE OF OHIO,	:	CASE NO. _____
	:	
Plaintiff-Appellee,	:	On Appeal from the Cuyahoga
	:	Court of Appeals, Eighth Appellate
	:	District
	:	
vs.	:	C.A. No. 99155
	:	
	:	
ARNOLD PAIGE	:	
	:	
Defendant-Appellant.	:	

**AFFIDAVIT IN SUPPORT OF MOTION FOR LEAVE TO FILE DELAYED APPEAL  
OF DEFENDANT-APPELLANT ARNOLD PAIGE**

I, Arnold Paige being first duly sworn according to the laws of the State of Ohio, depose and assert a sworn statement pursuant to S.Ct. Prac. R.2.2 (A)(4) of the basis for the claim in support of my Motion for Leave to File a Delayed Appeal.

My name is Arnold Paige. I am the Defendant-Appellant in the above-styled case. I have first-hand knowledge of and am competent to make the following statements.

On the 26 day of February 2013 the Court of Appeals filed its Decision and Journal Entry in the above-styled case. A copy of the Court of Appeals Decision and Journal Entry is attached my Motion for Leave to File a Delayed Appeal.

I was unable to file a notice of appeal and memorandum in support of jurisdiction within 45 days of the Court of Appeals Decision and Journal Entry because of the following reasons: See memorandum at page 4 of Motion for Leave to File a Delayed Appeal.

If this Court grant me leave to file a delayed appeal, I would present the following propositions of law for review:

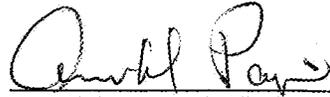
**PROPOSITION OF LAW NO. I**

"Whether appellant's motion for leave to reinstate appeal is timely", where the clerk failed to transmit the record, which resulted in a dismissal of notice of appeal.

**PROPOSITION OF LAW NO. II**

"Whether Appellant's Application for Reconsideration is timely pursuant to App. R. 26(A)(1)(a)".

Further, Affiant sayeth naught.



Arnold Paige #463249  
Defendant-Appellant, *pro se*

Sworn to and subscribed in my presence, a notary public, this 25 day of April, 2013.



Notary Public



**JENNIFER MAKI**  
Notary Public, State of Ohio  
Recorded in Ashtabula County  
My Commission Expires  
April 25, 2017

# Court of Appeals of Ohio, Eighth District

County of Cuyahoga  
Andrea Rocco, Clerk of Courts

STATE OF OHIO

Appellee

COA NO.  
99155

LOWER COURT NO.  
CP CR-445036

-vs-

COMMON PLEAS COURT

ARNOLD PAIGE

Appellant

MOTION NO. 461602

Date 01/16/13

---

Journal Entry

---

Motion by Appellant, pro se, for leave to reinstate appeal is denied as untimely. Appellant's motion was not filed within ten days of the court's dismissal as required by App.R. 26(A).

RECEIVED FOR FILING

JAN 16 2013

CUYAHOGA COUNTY CLERK  
OF THE COURT OF APPEALS  
By [Signature] Deputy

Judge MARY J. BOYLE, Concur

---

[Signature]  
MELODY J. STEWART  
Administrative Judge

CA12099155

77658863



VOL 766 #0313