

**IN THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
ASHTABULA, OHIO**

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2010-A-0041
HENRY A. LATIMORE,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Court of Common Pleas, Case No. 2009 CR 13.

Judgment: Appeal dismissed.

Thomas L. Sartini, Ashtabula County Prosecutor, Ashtabula County Courthouse, 25 West Jefferson Street, Jefferson, OH 44047-1092 (For Plaintiff-Appellee).

Henry A. Latimore, pro se, PID: 573-128, Marion Correctional Institution, P.O. Box 57, Marion, OH 43301-0057 (Defendant-Appellant).

MARY JANE TRAPP, P.J.

{¶1} On September 2, 2010, appellant, Henry A. Latimore, filed a pro se motion for leave to file a delayed appeal pursuant to App.R. 5(A). Appellant is attempting to appeal his original judgment of conviction and sentence issued by the Ashtabula County Court of Common Pleas on September 22, 2009. Thus, the appeal is untimely by almost eleven months.

{¶2} Appellee, the state of Ohio, filed a response opposing the motion on September 9, 2010.

{¶3} App.R. 5(A) provides, in relevant part:

{¶4} “After the expiration of the thirty day period provided by App.R. 4(A) for the filing of a notice of appeal as of right, an appeal may be taken by a defendant with leave of the court to which the appeal is taken in the following classes of cases:

{¶5} “(a) Criminal proceedings;

{¶6} “(b) Delinquency proceedings; and

{¶7} “(c) Serious youthful offender proceedings.

{¶8} “(2) A motion for leave to appeal shall be filed with the court of appeals and shall set forth the reasons for the failure of the appellant to perfect an appeal as of right. Concurrently with the filing of the motion, the movant shall file with the clerk of the trial court a notice of appeal in the form prescribed by App.R. 3 and shall file a copy of the notice of the appeal in the court of appeals.”

{¶9} In his motion, appellant asserts that his appeal is untimely due to: 1) not being informed by the trial court of his either right to appeal or the thirty-day time limit to file his notice of appeal; 2) not being informed by his trial counsel of his right to appeal or the time limit; 3) not being informed by the trial court or his trial counsel that he was entitled to have counsel appointed on appeal; and 4) his trial counsel withdrawing and not being represented by counsel after his conviction and sentence.

{¶10} While appellant’s reasons might explain some lapse in time in initiating his direct appeal, they do not justify a delay of nearly eleven months between the time of his conviction and sentence until the filing of his motion for delayed appeal. We find that appellant was not diligent in taking the proper steps to protect his own rights.

{¶11} Thus, appellant's pro se motion for leave to file a delayed appeal is hereby overruled, and the appeal is hereby dismissed, sua sponte.

{¶12} Appeal dismissed.

DIANE V. GRENDELL, J.,

TIMOTHY P. CANNON, J., concur.