

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

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2019-A-0068
MATTHEW STEVEN ENOS,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Ashtabula County Court of Common Pleas, Case No. 2019 CR 00059.

Judgment: Appeal dismissed.

Nicholas A. Iarocci, Ashtabula County Prosecutor, and *Shelley M. Pratt*, Assistant Prosecutor, Ashtabula County Courthouse, 25 West Jefferson Street, Jefferson, OH 44047-1092 (For Plaintiff-Appellee).

Matthew Steven Enos, pro se, PID# A762-785, Lake Erie Correctional Institution, 501 Thompson Road, P.O. Box 8000, Conneaut, OH 44030 (Defendant-Appellant).

TIMOTHY P. CANNON, J.

{¶1} Appellant, Matthew Steven Enos, pro se, filed a motion for leave to file a delayed appeal, pursuant to App.R. 5(A), and a notice of appeal on August 7, 2019, from the trial court's June 7, 2019 entry sentencing him to serve four years in prison after he entered a plea of guilty to aggravated trafficking in drugs and having weapons while under disability, both included forfeiture specifications.

{¶2} A timely notice of appeal was due no later than July 8, 2019. Thus, the appeal is untimely by one month.

{¶3} App.R. 4(A)(1) states in relevant part:

{¶4} “* * * [A] party who wishes to appeal from an order that is final upon its entry shall file the notice of appeal required by App.R. 3 within 30 days of that entry.”

{¶5} App.R. 5(A) provides:

{¶6} “(1) 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:

{¶7} “(a) Criminal 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} As reasons for appellant’s delay in filing his appeal, he indicates that the trial court and his trial counsel failed to advise him of his right to appeal and for appointment of appellate counsel. He contends that he was just made aware of those rights in July 2019 by an inmate law clerk.

{¶10} Appellee, the state of Ohio, filed a response in opposition to appellant’s motion asserting that appellant pleaded guilty to a stipulated sentence in the presence of counsel, and he signed the plea agreement which states: “[m]y attorney has explained my right to appeal a maximum sentence, my other limited appellate rights,

and that any appeal must be filed within 30 days of the Court's entry of the judgment of my sentence."

{¶11} A review of the June 7, 2019 "Written Plea of Guilty" confirms appellee's assertion.

{¶12} Thus, we find that appellant has not stated a valid reason for filing an untimely appeal, and his motion for leave to file a delayed appeal is hereby overruled.

{¶13} Appeal dismissed.

THOMAS R. WRIGHT, P.J.,

MARY JANE TRAPP, J.,

concur.