

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

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2019-A-0012
JOHN JUDE, JR.,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Ashtabula County Court of Common Pleas, Case No. 1973 CR 09376.

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).

John Jude, Jr., pro se, PID: A603-412, Lake Erie Correctional Institution, 501 Thompson Road, P.O. Box 8000, Conneaut, OH 44030 (Defendant-Appellant).

THOMAS R. WRIGHT, P.J.

{¶1} On January 24, 2019, appellant filed a pro se notice of appeal and motion for leave to file a delayed appeal pursuant to App.R. 5(A). Appellee, the state of Ohio, opposes the motion.

{¶2} Appellant moves to appeal the trial court's May 29, 1973 entry sentencing him to life in prison for second-degree murder. The appeal is untimely by over 45 years.

{¶3} [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.*” (Emphasis added.) App.R. 4(A)(1).

{¶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 * * * [c]riminal proceedings * * *.” App.R. 5(A)(1)(a).

{¶5} A motion for leave to appeal shall set forth the reasons for the failure to perfect an appeal as of right. App.R. 5(A)(2).

{¶6} The reasons for failing to perfect an appeal as of right must be valid and justify the length of time it took to initiate an appeal. *See, e.g., State v. Johnson*, 11th Dist. Trumbull No. 2013-T-0121, 2014-Ohio-2015, ¶6; *State v. Williams*, 11th Dist. Trumbull No. 2013-T-0034, 2013-Ohio-3481, ¶9.

{¶7} Appellant asserts that: 1) after being advised of his right to appeal by the trial court, his defense counsel failed to file a timely notice of appeal; 2) he was not served with a copy of the May 29, 1973 judgment entry by the clerk’s office; and 3) the trial court found him to be indigent and appointed trial counsel, but failed to appoint appellate counsel.

{¶8} Assuming appellant’s reasons are true, they do not justify a delay of over 45 years in initiating his direct appeal. Appellant was not diligent in taking the proper steps to protect his own rights.

{¶9} Appellant’s pro se motion for leave to file a delayed appeal is hereby overruled.

{¶10} Appeal dismissed.

MATT LYNCH, J.,

MARY JANE TRAPP, J.,

concur.