

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

State of Ohio,	:	
Plaintiff-Appellee,	:	
v.	:	No. 06AP-703
Robert E. Jackson,	:	(C.P.C. No. 05CR-01-126)
Defendant-Appellant.	:	(REGULAR CALENDAR)

D E C I S I O N

Rendered on September 14, 2006

Ron O'Brien, Prosecuting Attorney, and *Laura R. Swisher*, for
appellee.

Robert E. Jackson, pro se.

ON MOTIONS

TRAVIS, J.

{¶1} This matter comes before the court upon appellant's motion for leave to file a delayed appeal from the judgment of conviction and sentence entered in his case on January 23, 2006. The State of Ohio opposes the motion. Appellant also moves for appointment of counsel and production of a transcript of the proceedings below at state expense.

{¶2} Appellant's conviction and subsequent sentence were based upon appellant's guilty plea to eight felony offenses. The counseled guilty pleas were entered in open court on September 2, 2005. The first five counseled guilty pleas were to felonies of the first degree: one count of aggravated burglary, two counts of aggravated robbery, and two counts of kidnapping. Each of the felonies of the first degree included a specification that appellant used a firearm while committing the offense. In addition, appellant entered guilty pleas to two counts of failure to obey an order or signal of a police officer, felonies of the third and fourth degree and one count of having a weapon while under disability, a felony of the third degree.

{¶3} During the hearing on appellant's guilty plea, appellant signed a guilty plea form that included information on his appellate rights. "I understand that I can appeal as of right from my plea and sentence within thirty days of the filing of my judgment of conviction." Sentence was imposed in open court on January 20, 2006, and filed on January 23, 2006. Appellant did not file an appeal from that judgment.

{¶4} In a criminal case, after the time for the filing of an appeal as of right as provided in App.R. 4, appeal may be taken only by leave of the court to which the appeal is taken. App.R. 5. In pertinent part, that rule provides as follows: "A motion for leave to appeal shall be filed with the court of appeals and shall set forth the reasons for the failure of appellant to perfect an appeal as of right." The defendant bears the burden to demonstrate a reasonable explanation for the failure to perfect a timely appeal. *State v. Walden*, Franklin App. No. 05AP-532, 2005-Ohio-3993.

{¶5} Appellant claims that he asked his attorney to appeal from his guilty pleas and sentence and that counsel said an appeal would be filed. Appellant claims that he

was unaware that his attorney failed to file an appeal until he obtained a copy of the docket in his case. However, appellant does not explain why, after being made aware that no appeal had been filed, he then waited until July 7, 2006 to file the current motion.

{¶6} Appellant has not provided a reasonable explanation for his failure to file the motion for delayed appeal in a timely fashion. Therefore, the motions for leave to file a delayed appeal, for appointment of counsel, and for production of a transcript at state expense are denied.

Motions denied.

KLATT, P.J., and FRENCH, J., concur.
