

[Cite as *State v. Cardwell*, 2012-Ohio-3233.]

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State of Ohio,	:	No. 12AP-274
		(C.P.C. No. 10CR-09-5726)
Plaintiff-Appellee,	:	
		No. 12AP-275
v.	:	(C.P.C. No. 10CR-12-7131)
Carold Cardwell,	:	No. 12AP-276
		(C.P.C. No. 11CR-02-1016)
Defendant-Appellant.	:	
		(REGULAR CALENDAR)
	:	

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D E C I S I O N

Rendered on July 17, 2012

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*Ron O'Brien*, Prosecuting Attorney, and *Seth L. Gilbert*, for  
appellee.

*Carold Cardwell*, pro se.

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ON MOTIONS FOR LEAVE TO FILE DELAYED APPEAL

CONNOR, J.

{¶ 1} Defendant-appellant, Carold Cardwell, brings these motions for leave to file his delayed direct appeals from his criminal convictions.

{¶ 2} On August 28, 2011, appellant pleaded guilty under three different trial court case numbers to a total of four counts of aggravated robbery with firearm specifications. On October 27, 2011, the trial court sentenced appellant to various concurrent and consecutive terms of imprisonment resulting in a total sentence of 18 years.

{¶ 3} On March 28, 2012, five months after sentencing, appellant filed with this court motions for leave to file delayed direct criminal appeals from the trial court's

judgments of conviction and sentence in his three cases. Appellant did not file concurrent notices of appeal. The state of Ohio has filed a memorandum opposing any grant of leave to file delayed appeals in these cases.

{¶ 4} Pursuant to App.R. 4(A), a criminal defendant shall file his notice of appeal from a criminal conviction within 30 days of the trial court's entry of judgment. After expiration of the 30-day period under App.R. 4(A) for filing a notice of appeal as of right, a defendant may under App.R. 5(A)(1) seek leave from the court of appeals to file a delayed appeal. When doing so, the defendant shall "set forth the reasons for the failure of the appellant to perfect an appeal as of right." App.R. 5(A)(2). The rule also provides that "[c]oncurrently with the filing of the motion, the movant shall file \* \* \* a notice of appeal in the form prescribed by App.R. 3 \* \* \* ." *Id.*

{¶ 5} Appellant did not file the concurrent notices of appeal required by App.R. 5(A)(2), and has not taken the opportunity during the pendency of these motions to correct this deficiency. His motions must be dismissed for non-compliance with that rule. *State v. Bozek*, 11th Dist. No. 2011-P-0101, 2012-Ohio-870.

{¶ 6} In addition, appellant's memorandum in support details only approximately one month of colorably justifiable circumstances that would have delayed filing his notice of appeal. Appellant's memorandum does not account for the additional four-month delay before he filed his motions. We accordingly find that appellant's motions do not set forth sufficient reasons for his failure to file his appeals as of right or, at the very least, more promptly after the expiration of the 30-day period under App.R. 4.

{¶ 7} For both these reasons, appellant's motions for leave to file delayed appeals from his criminal convictions is denied.

*Motions for delayed appeal denied.*

SADLER and FRENCH, JJ., concur.

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