

**THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
LAKE COUNTY, OHIO**

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|----------------------|---|----------------------------|
| STATE OF OHIO, | : | MEMORANDUM OPINION |
| Plaintiff-Appellee, | : | |
| - vs - | : | CASE NO. 2006-L-071 |
| ANTHONY P. CONSTANT, | : | |
| Defendant-Appellant. | : | |

Criminal Appeal from the Court of Common Pleas, Case No. 86 CR 000228

Judgment: Appeal dismissed.

Charles E. Coulson, Lake County Prosecutor, 105 Main Street, P.O. Box 490 Painesville, OH 44077 (For Plaintiff-Appellee).

Stephen J. Futterer, Willoughby Professional Building, 38052 Euclid Avenue, #105, Willoughby, OH 44094 (For Defendant-Appellant).

DONALD R. FORD, P.J.,

{¶1} On April 27, 2006, appellant, Anthony P. Constant, filed a motion for delayed appeal pursuant to App.R. 5(A). Appellant appeals from a judgment issued by the trial court on July 18, 2001, in which he was found to be a sexual predator.

{¶2} Appellant's motion for delayed appeal was filed over four and one-half years after the judgment was entered by the trial court.

{¶3} Appellee filed its response in opposition to the motion on May 3, 2006.

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

{¶5} “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 ***.

{¶6} “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.”

{¶7} In his motion, appellant asserts the following as his reasons for failing to file a timely appeal: 1) he was not notified of his trial counsel’s appointment or of his hearing date and was not given an opportunity to prepare for a sexual predator hearing; 2) he was improperly advised by his trial attorney; 3) he is innocent of the charges in this case; 4) there are multiple errors in the transcript of proceedings regarding his statements at the time that he waived his right to a hearing in the trial court; 5) he was not properly advised of the consequences of the wrongful labeling as a sexual predator which was based upon false information; and 6) he has been under legal disability as an inmate at Marion Correctional Facility.

{¶8} First, this Court would note that appellant has not met the requirements of App.R. 5(A) in that he has failed to assert reasons for bringing his appeal in an untimely manner. In other words, the reasons submitted by appellant may be reviewable issues upon the merits of an appeal, but they do not explain why he failed to initiate his appeal within thirty days from the date of the appealed judgment.

{¶9} In addition, given that over four and one-half years elapsed between the time that appellant was found to be a sexual predator until the filing of his motion for delayed appeal and notice of appeal, regardless of his failure to submit reasons for such neglect, it is evident that appellant was not diligent in taking the proper steps to protect

his own rights. Accordingly, it is ordered that appellant's motion for leave to file a delayed appeal is hereby overruled.

{¶10} Appeal dismissed.

DIANE V. GRENDELL, J.,

CYNTHIA WESTCOTT RICE, J.,

concur.